



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike-through letters~~ indicate deleted material.

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Capitol Building
Des Moines, IA 50319
Telephone: (515)281-3568

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC
(chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication
date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

Schedule for Rule Making 2005

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 31 '04	Jan. 19 '05	Feb. 8 '05	Feb. 23 '05	Feb. 25 '05	Mar. 16 '05	Apr. 20 '05	July 18 '05
Jan. 14 '05	Feb. 2	Feb. 22	Mar. 9	Mar. 11	Mar. 30	May 4	Aug. 1
Jan. 28	Feb. 16	Mar. 8	Mar. 23	Mar. 25	Apr. 13	May 18	Aug. 15
Feb. 11	Mar. 2	Mar. 22	Apr. 6	Apr. 8	Apr. 27	June 1	Aug. 29
Feb. 25	Mar. 16	Apr. 5	Apr. 20	Apr. 22	May 11	June 15	Sept. 12
Mar. 11	Mar. 30	Apr. 19	May 4	May 6	May 25	June 29	Sept. 26
Mar. 25	Apr. 13	May 3	May 18	***May 18***	June 8	July 13	Oct. 10
Apr. 8	Apr. 27	May 17	June 1	June 3	June 22	July 27	Oct. 24
Apr. 22	May 11	May 31	June 15	June 17	July 6	Aug. 10	Nov. 7
May 6	May 25	June 14	June 29	***June 29***	July 20	Aug. 24	Nov. 21
May 18	June 8	June 28	July 13	July 15	Aug. 3	Sept. 7	Dec. 5
June 3	June 22	July 12	July 27	July 29	Aug. 17	Sept. 21	Dec. 19
June 17	July 6	July 26	Aug. 10	Aug. 12	Aug. 31	Oct. 5	Jan. 2 '06
June 29	July 20	Aug. 9	Aug. 24	***Aug. 24***	Sept. 14	Oct. 19	Jan. 16 '06
July 15	Aug. 3	Aug. 23	Sept. 7	Sept. 9	Sept. 28	Nov. 2	Jan. 30 '06
July 29	Aug. 17	Sept. 6	Sept. 21	Sept. 23	Oct. 12	Nov. 16	Feb. 13 '06
Aug. 12	Aug. 31	Sept. 20	Oct. 5	Oct. 7	Oct. 26	Nov. 30	Feb. 27 '06
Aug. 24	Sept. 14	Oct. 4	Oct. 19	Oct. 21	Nov. 9	Dec. 14	Mar. 13 '06
Sept. 9	Sept. 28	Oct. 18	Nov. 2	Nov. 4	Nov. 23	Dec. 28	Mar. 27 '06
Sept. 23	Oct. 12	Nov. 1	Nov. 16	***Nov. 16***	Dec. 7	Jan. 11 '06	Apr. 10 '06
Oct. 7	Oct. 26	Nov. 15	Nov. 30	Dec. 2	Dec. 21	Jan. 25 '06	Apr. 24 '06
Oct. 21	Nov. 9	Nov. 29	Dec. 14	***Dec. 14***	Jan. 4 '06	Feb. 8 '06	May 8 '06
Nov. 4	Nov. 23	Dec. 13	Dec. 28	Dec. 30	Jan. 18 '06	Feb. 22 '06	May 22 '06
Nov. 16	Dec. 7	Dec. 27	Jan. 11 '06	Jan. 13 '06	Feb. 1 '06	Mar. 8 '06	June 5 '06
Dec. 2	Dec. 21	Jan. 10 '06	Jan. 25 '06	Jan. 27 '06	Feb. 15 '06	Mar. 22 '06	June 19 '06
Dec. 14	Jan. 4 '06	Jan. 24 '06	Feb. 8 '06	Feb. 10 '06	Mar. 1 '06	Apr. 5 '06	July 3 '06
Dec. 30	Jan. 18 '06	Feb. 7 '06	Feb. 22 '06	Feb. 24 '06	Mar. 15 '06	Apr. 19 '06	July 17 '06

PRINTING SCHEDULE FOR IAB

ISSUE NUMBER

SUBMISSION DEADLINE

ISSUE DATE

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Wednesday, August 24, 2005

September 14, 2005

7

Friday, September 9, 2005

September 28, 2005

8

Friday, September 23, 2005

October 12, 2005

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

Note change of filing deadline

PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies
FROM: Kathleen K. West, Iowa Administrative Code Editor
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses QuickSilver XML Publisher, version 2.0.0, to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

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kathleen.west@legis.state.ia.us

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Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies, but not on the diskettes; diskettes are returned unchanged.

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AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
CORRECTIONS DEPARTMENT[201]		
Sex offender management and treatment, 38.2, 38.3 IAB 8/3/05 ARC 4404B (See also ARC 4403B)	Second Floor Conference Room 420 Watson Powell Jr. Way Des Moines, Iowa	August 23, 2005 11 a.m. to 1 p.m.
CULTURAL AFFAIRS DEPARTMENT[221]		
Cultural and entertainment districts, 9.1 to 9.8 IAB 8/3/05 ARC 4392B	Tone Board Room, Third Floor West Historical Bldg. 600 E. Locust St. Des Moines, Iowa	August 23, 2005 9 to 10 a.m.
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]		
Economic development board, amendments to ch 1 IAB 8/3/05 ARC 4419B (See also ARC 4374B)	UNI Regional Business Center 212 E. 4th St. Waterloo, Iowa	August 23, 2005 5 to 7 p.m.
	Scott County Administrative Center 428 Western Ave. Davenport, Iowa	August 24, 2005 5 to 7 p.m.
	Iowa Wesleyan College Mt. Pleasant, Iowa	August 25, 2005 5 to 7 p.m.
	Atlantic Public Library 507 Poplar St. Atlantic, Iowa	August 30, 2005 5 to 7 p.m.
	Clay County Regional Events Center 800 W. 18th Street Spencer, Iowa	August 31, 2005 5 to 7 p.m.
	NIACC, Pappajohn Center, Rm. 117 500 College Dr. Mason City, Iowa	September 1, 2005 5 to 7 p.m.
	IDED 200 E. Grand Ave., Second Floor Des Moines, Iowa	September 7, 2005 4 to 6 p.m.
Grow Iowa values fund assistance, ch 2 IAB 8/3/05 ARC 4420B (See also ARC 4370B)	For locations, dates and times of public hearings, see ARC 4419B above.	
Jobs training program; training and economic development funds; ACE program, amendments to chs 7, 9, 20 IAB 8/3/05 ARC 4421B (See also ARC 4368B)	For locations, dates and times of public hearings, see ARC 4419B above.	
Economic development region initiatives, ch 31 IAB 8/3/05 ARC 4413B	For locations, dates and times of public hearings, see ARC 4419B above.	

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- Tax credits for economic development
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IAB 8/3/05 **ARC 4414B**
- Endow Iowa grants program,
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IAB 8/3/05 **ARC 4415B**
- Endow Iowa tax credits,
amendments to ch 47 For locations, dates and times of public hearings, see **ARC 4419B** above.
IAB 8/3/05 **ARC 4416B**
- Community economic betterment
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IAB 8/3/05 **ARC 4417B**
(See also **ARC 4371B**)
- NJIP and NCIP; high quality job
creation program, 58.16, 64.8, ch 68 For locations, dates and times of public hearings, see **ARC 4419B** above.
IAB 8/3/05 **ARC 4409B**
(See also **ARC 4372B**)
- Enterprise zones, amendments to ch 59
IAB 8/3/05 **ARC 4418B** For locations, dates and times of public hearings, see **ARC 4419B** above.
- Loan and credit guarantee program,
amendments to ch 69 For locations, dates and times of public hearings, see **ARC 4419B** above.
IAB 8/3/05 **ARC 4410B**
(See also **ARC 4373B**)
- Program wage thresholds calculations,
168.201 to 168.203 For locations, dates and times of public hearings, see **ARC 4419B** above.
IAB 8/3/05 **ARC 4411B**
(See also **ARC 4412B**)

EDUCATIONAL EXAMINERS BOARD[282]

- Fee increases, amendments to chs 14,
17, 19 to 22 Room 3 North, Third Floor September 6, 2005
Grimes State Office Building 1 p.m.
IAB 8/17/05 **ARC 4440B** Des Moines, Iowa
(See also **ARC 4442B** herein)

ENVIRONMENTAL PROTECTION COMMISSION[567]

- Adoption by reference of federal
NESHAPS, 23.1(4) Conference Rooms September 16, 2005
Air Quality Bureau 1:30 p.m.
IAB 8/17/05 **ARC 4434B** 7900 Hickman Road
Urbandale, Iowa

IOWA FINANCE AUTHORITY[265]

- State housing trust fund, 19.1, 19.2 State Library August 23, 2005
IAB 8/3/05 **ARC 4422B** Ola Babcock Miller Bldg., Third Floor 9 to 10 a.m.
(ICN Network) East 12th and Grand Ave.
Des Moines, Iowa

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ICCC, Library Bldg., Room 206 330 Ave. M Fort Dodge, Iowa	August 23, 2005 9 to 10 a.m.
Community School District Administration Bldg. 346 Second Ave. SW Cedar Rapids, Iowa	August 23, 2005 9 to 10 a.m.
Human Services Dept. 417 E. Kanesville Blvd. Council Bluffs, Iowa	August 23, 2005 9 to 10 a.m.
Carnegie-Stout Public Library 360 W. 11th St. Dubuque, Iowa	August 23, 2005 9 to 10 a.m.
NIACC, Activity Ctr., Room 106 500 College Dr. Mason City, Iowa	August 23, 2005 9 to 10 a.m.
Indian Hills Comm. College Advance Tech. Ctr., 107 525 Grandview Ave. Ottumwa, Iowa	August 23, 2005 9 to 10 a.m.
Southwestern Comm. College Instructional Center, Room 211 1501 W. Townline Rd. Creston, Iowa	August 23, 2005 9 to 10 a.m.
Kimberly Center, Room 119 (use west front door) 1002 W. Kimberly Davenport, Iowa	August 23, 2005 9 to 10 a.m.
Western Iowa Tech. Comm. College D202, Bldg. A 4647 Stone Ave. Sioux City, Iowa	August 23, 2005 9 to 10 a.m.
UNI, Schindler 130A Hudson Rd. and 23rd St. Cedar Falls, Iowa	August 23, 2005 9 to 10 a.m.

Transitional housing revolving loan
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IAB 8/3/05 **ARC 4405B**

For locations, time and date of public hearing, see **ARC 4422B** above.

Home and community-based services
rent subsidy program, ch 24
IAB 8/3/05 **ARC 4406B**

For locations, time and date of public hearing, see **ARC 4422B** above.

PUBLIC SAFETY DEPARTMENT[661]

Fire safety standards, 5.16, 5.301
IAB 8/17/05 **ARC 4444B**

Fire Marshal Division Conference Rm. Suite N 401 SW 7th Street Des Moines, Iowa	September 9, 2005 10 a.m.
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Standards for flammable and combustible liquids, 51.202(1) IAB 8/17/05 ARC 4445B	Fire Marshal Division Conference Rm. Suite N 401 SW 7th Street Des Moines, Iowa	September 9, 2005 9:30 a.m.
Iowa sex offender registry, 83.2 to 83.4 IAB 7/20/05 ARC 4357B (See also ARC 4358B)	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	September 10, 2005 10 a.m.
DNA database, ch 156 IAB 7/20/05 ARC 4360B (See also ARC 4361B)	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	September 12, 2005 9:30 a.m.

RACING AND GAMING COMMISSION[491]

License revocation; state fire and building codes; trifecta wagering, amendments to chs 1, 4, 5, 8 IAB 8/3/05 ARC 4391B	717 E. Court Ave. Suite B Des Moines, Iowa	August 23, 2005 9 a.m.
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RECORDS COMMISSION[671]

E-mail retention, ch 15 IAB 8/3/05 ARC 4393B	Tone Board Room, Third Floor West Historical Bldg. 600 E. Locust St. Des Moines, Iowa	August 23, 2005 10 a.m.
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TRANSPORTATION DEPARTMENT[761]

Waiver of administrative rules, amendments to chs 11, 112, 115, 500, 505, 524, 529 IAB 8/3/05 ARC 4367B	First Floor South Conference Room Administration Bldg. 800 Lincoln Way Ames, Iowa	August 25, 2005 10 a.m. (If requested)
Signing manual, 130.1 IAB 8/3/05 ARC 4366B	First Floor South Conference Room Administration Bldg. 800 Lincoln Way Ames, Iowa	August 25, 2005 11 a.m. (If requested)
Vehicles and loads of excess size and weight, 511.8(1)“e,” 511.16(4) IAB 8/3/05 ARC 4376B	DOT Conference Room Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	August 25, 2005 10 a.m. (If requested)

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Certification of eligibility for wind energy and renewable energy tax credits, 15.18 IAB 7/20/05 ARC 4341B (See also ARC 4342B)	Hearing Room 350 Maple St. Des Moines, Iowa	September 21, 2005 10 a.m.
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Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

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AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 99D.22 and 159.5(11), and 2005 Iowa Acts, House File 808, sections 19 and 20, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 62, “Registration of Iowa-Foaled Horses and Iowa-Whelped Dogs,” Iowa Administrative Code.

The purpose of this proposed rule is to establish registration fees for Iowa-foaled horses and Iowa-whelped dogs that are part of the state’s pari-mutuel betting program.

Any interested person may make written suggestions or comments on this proposed rule on or before September 6, 2005. Such written materials should be directed to Mary Jane Olney, Division Administrator, Marketing Development and Administrative Services, Agriculture and Land Stewardship Department, Wallace State Office Building, 502 E. 9th St., Des Moines, Iowa 50319; or faxed to (515)281-4185. E-mail comments may be sent to mary.jane.olney@idals.state.ia.us.

This rule is intended to implement Iowa Code chapter 99D.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following rule is proposed.

Amend 21—Chapter 62 by adopting the following **new** rule:

21—62.6(99D) Registration fees.

62.6(1) Iowa-foaled horses. For an Iowa-foaled horse to be eligible to race in Iowa, a \$30 registration fee shall be imposed at the time of registration of each stallion, mare, or foal registered.

62.6(2) Iowa-whelped dogs. The following fees shall be imposed at the time of registration:

- a. Registration of a dam, \$25.
- b. Registration of a litter, \$10.
- c. Registration of a dog, \$5.

This rule is intended to implement Iowa Code section 99D.22 as amended by 2005 Iowa Acts, House File 808, sections 19 and 20.

ARC 4440B

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 14, “Issuance of Practitioner’s Licenses and Endorsements,” Chapter 17, “Renewal of Licenses,” Chapter 19, “Coaching Authorization,” Chapter 20, “Evaluator Endorsement and License,” Chapter 21, “Behind-the-Wheel Driving Instructor Authorization,” and Chapter 22, “Paraeducator Certificates,” Iowa Administrative Code.

The proposed amendments increase fees for licenses and authorizations. Most license fees will be increased \$25 for the five-year period (from \$60 to \$85). The fee for a duplicate license will be increased from \$10 to \$15. The fee for a Class E license will be increased from \$125 to \$150 in an effort to have individuals complete the conditions for the license on time. The fee for a teacher intern license will be increased from \$100 to \$125. The fee for substitute authorization will be increased from \$25 to \$40. The fee for coaching authorization will be increased from \$50 to \$85. The fee for behind-the-wheel instructor authorization and renewal will be increased from \$25 to \$40. The fee for a paraeducator certificate will be increased from \$25 to \$40.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Tuesday, September 6, 2005, at 1 p.m. in Room 3 North, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, September 9, 2005. Written comments and suggestions should be addressed to Barbara F. Hendrickson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to barbara.hendrickson@iowa.gov, or by fax to (515)281-7669.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 4442B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code chapter 272.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

ARC 4434B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 23, “Emission Standards for Contaminants,” Iowa Administrative Code.

This proposed amendment of subrule 23.1(4) adopts by reference several national emission standards for hazardous air pollutants for source categories (commonly known as NESHAPS) which were promulgated by the U.S. Environmental Protection Agency (EPA) into 40 Code of Federal Regulations (CFR) Part 63 between 1996 and 2003. The Department did not adopt these standards in the past because there were no source categories in Iowa subject to these standards. This status has not changed. However, the Department has a delegation agreement with EPA specifying that Iowa will adopt all federal NESHAPS. To fulfill this agreement and to ensure that these federal standards are adopted should subject-sources locate in Iowa in the future, the Department is proposing this amendment.

The NESHAPS proposed to be adopted either regulate source categories or specify air emission control provisions for source categories, as follows:

- Primary Aluminum Reduction Plants (source category);
- Tanks – Level 1 (emission control);
- Containers (emission control);
- Surface Impoundments (emission control);
- Individual Drain Systems (emission control);
- Oil-Water Separators and Organic-Water Separators (emission control);
- Semiconductor Manufacturing (source category);
- Site Remediation (source category);
- Taconite Iron Ore Processing (source category); and
- Primary Magnesium Refining (source category).

Any person may make written suggestions or comments on the proposed amendment on or before September 16, 2005. Written comments should be directed to Christine Paulson, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322; fax (515)242-5094; or by electronic mail to christine.paulson@dnr.state.ia.us.

A public hearing will be held on Friday, September 16, 2005, at 1:30 p.m. in the conference rooms at the Department's Air Quality Bureau located at 7900 Hickman Road, Urbandale, Iowa. All comments must be received no later than September 16, 2005.

Any person who intends to attend the public hearing and has special requirements such as those related to hearing or mobility impairments should contact Christine Paulson at (515)242-5154 to advise of any specific needs.

This amendment is intended to implement Iowa Code section 455B.133.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule **23.1(4)** by adopting the following new paragraphs “**al**,” “**ao**,” “**ap**,” “**aq**,” “**ar**,” “**av**,” “**db**,” “**dg**,” “**dr**,” and “**dt**.”

al. Emission standards for hazardous air pollutants for primary aluminum reduction plants. These standards apply to each new or existing potline, paste production plant, and anode bake furnace associated with a primary aluminum reduction plant, and for each new pitch storage tank associated with a primary aluminum production plant. (Part 63, Subpart LL)

ao. Emission standards for tanks – level 1. These provisions apply when another paragraph under this rule references the use of this paragraph for such air emission control. These air emission standards are placed here for administrative convenience and only apply to those owners and operators of facilities subject to the referencing paragraph. The provisions of paragraph 23.1(4)“a,” general provisions (Subpart A), do not apply to this paragraph except as specified in a referencing paragraph. (Part 63, Subpart OO)

ap. Emission standards for containers. These provisions apply when another paragraph under this rule references the use of this paragraph for such air emission control. These air emission standards are placed here for administrative convenience and only apply to those owners and operators of facilities subject to the referencing paragraph. The provisions of paragraph 23.1(4)“a,” general provisions (Subpart A), do not apply to this paragraph except as specified in a referencing paragraph. (Part 63, Subpart PP)

aq. Emission standards for surface impoundments. These provisions apply when another paragraph under this rule references the use of this paragraph for such air emission control. These air emission standards are placed here for administrative convenience and only apply to those owners and operators of facilities subject to the referencing paragraph. The provisions of paragraph 23.1(4)“a,” general provisions (Subpart A), do not apply to this paragraph except as specified in a referencing paragraph. (Part 63, Subpart QQ)

ar. Emission standards for individual drain systems. These provisions apply when another paragraph under this rule references the use of this paragraph for such air emission control. These air emission standards are placed here for administrative convenience and only apply to those owners and operators of facilities subject to the referencing paragraph. The provisions of paragraph 23.1(4)“a,” general provisions (Subpart A), do not apply to this paragraph except as specified in a referencing paragraph. (Part 63, Subpart RR)

av. Emission standards for oil-water separators and organic-water separators. These provisions apply when another paragraph under this rule references the use of this paragraph for such air emission control. These air emission standards are placed here for administrative convenience and only apply to those owners and operators of facilities subject to the referencing paragraph. The provisions of paragraph 23.1(4)“a,” general provisions (Subpart A), do not apply to

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

this paragraph except as specified in a referencing paragraph. (Part 63, Subpart VV)

db. Emission standards for hazardous air pollutants: semiconductor manufacturing. These standards apply to new and existing major sources with semiconductor manufacturing. (Part 63, Subpart BBBB)

dg. Emission standards for hazardous air pollutants: site remediation. These standards apply to new and existing major sources with certain types of site remediation activity on the source's property or on a contiguous property. These standards control hazardous air pollutant (HAP) emissions at major sources where remediation technologies and practices are used at the site to clean up contaminated environmental media (e.g., soil, groundwater, or surface water) or certain stored or disposed materials that pose a reasonable potential threat to contaminate environmental media.

Some site remediations already regulated by rules established under the Comprehensive Environmental Response and Compensation Liability Act (CERCLA) or the Resource Conservation and Recovery Act (RCRA) are not subject to these standards, as specified in Subpart GGGGG. There are also exemptions for short-term remediation and for certain leaking underground storage tanks, as specified in Subpart GGGGG. (Part 63, Subpart GGGGG)

dr. Emission standards for hazardous air pollutants: taconite iron ore processing. These standards apply to new and existing taconite iron ore processing plants that are, or are part of, a major source of HAP emissions. (Part 63, Subpart RRRR)

dt. Emission standards for hazardous air pollutants: primary magnesium refining. These standards apply to primary magnesium refining plants that are, or are part of, a major source of HAP emissions. (Part 63, Subpart TTTT)

ARC 4439B

HUMAN SERVICES
DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 151, "Juvenile Court Services-Directed Programs," Iowa Administrative Code.

Chapter 151 is revised to correspond with changes to the Iowa Code, appropriations Acts, and current desired practice. Changes include the following:

- The definition of "child" is modified to include children under court order through 19 ½ years of age, and a definition of "at risk" is provided to ensure that children identified with the legal definition of "informal status" and who would otherwise be referred for formal adjudication are served.

- Responsibilities of the judicial district planning committee, removed from the appropriations Acts, are replaced by responsibilities specified for the state court administrator and the chief juvenile court officers. A procedure for ap-

plication and certification by the court is included for court-ordered services.

- Court-ordered services payment is allowed for medical cost sharing for one deductible or coinsurance payment when insurance or Medicaid is available to pay the remainder of the court-ordered services cost. Court-ordered services payment is also allowed for General Education Development (GED) tests and credits ordered by the court and not required to be paid by the state.

- An "eligible child" is defined for both court-ordered services and graduated sanction services.

- The portion of funds allowed for the administrative cost of graduated sanction services is increased from 5 percent to 10 percent. The administrative cost includes the cost of operating expenses and of salaries for one court accountant auditor in each judicial district.

- Changes regarding the contracting process are made to ensure compliance with the Accountable Government Act. Payment is tied to performance. Providers must provide information for each child discharged from services. The Department and Juvenile Court Services will determine whether the child is being served elsewhere in the system 6 months or 12 months following the child's discharge.

- Some contract-related rules are deleted from Chapter 151 as they are now covered by rules promulgated by the Department of Administrative Services at 11—Chapters 106 and 107.

- Payment and record retention requirements are changed for Juvenile Court Services. Juvenile Court Services, rather than the Department, is required to retain certain back-up documents, subject to audit, for billing and payment. Juvenile Court Services staff submit less paperwork to the Department but are responsible for maintaining supporting documentation for claims. The provider retains ultimate responsibility for the accuracy of the claim submitted.

These amendments do not provide for waivers in specified situations because most procedures are based on requirements in the Iowa Code and in appropriations Acts which the Department has no authority to waive. Waivers may be requested under the Department's general rule on exceptions at rule 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before September 7, 2005. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 232.141.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend **441—Chapter 151**, preamble, as follows:

PREAMBLE

These rules prescribe services for children eligible for reimbursement from funds appropriated specifically for juvenile court services-directed programs. ~~Juvenile~~ *The state court services has administrator and chief juvenile court officers have primary responsibility for the graduated sanction and administration of court-ordered care and treatment services and graduated sanction services for children. The*

HUMAN SERVICES DEPARTMENT[441](cont'd)

graduated sanction services are also known as “early intervention and follow-up services” or “community-based delinquency programs.”

The juvenile court services-directed programs ~~are administered through five programs: addressed in this chapter include court-ordered care and treatment; services and four graduated sanction programs:~~ life skills; school-based supervision; supervised community treatment; and tracking, monitoring, and outreach. The rules establish *the criteria for the allocation formula of funds* for the five programs and the procedures for administration, application, eligibility, appeals, service delivery, and billing and payment.

ITEM 2. Rescind **441—Chapter 151, Division I**, and adopt **new Division I** in lieu thereof as follows:

DIVISION I
GENERAL PROVISIONS

PREAMBLE

These rules, pursuant to the authority granted in the Iowa Code and annual appropriations Acts, prescribe the relationship between the state court administrator (the judicial branch), the chief juvenile court officer from each judicial district, and the department of human services (the executive branch) in the administration of the funds for the juvenile court services-directed programs. These rules also prescribe the joint responsibilities of the chief juvenile court officers and the department’s service area managers for the planning and implementation of an annual child welfare and juvenile justice plan for each department service area.

441—151.1(232) Definitions.

“At risk” or “high risk” means that a child has been referred to juvenile court services for a delinquency violation or has exhibited behaviors likely to result in a juvenile delinquency referral.

“Case file” means a file that includes referral information, information generated during assessment, documentation of court proceedings, other eligibility determinations, case plans, and case reports, including quarterly progress reports. Case files of providers also include records of provider-child contact that document provision of services.

“Case record” means a minimal record that identifies the child and the service provided and documents the child’s eligibility. A case record is maintained when a case file is not required.

“Certification of the court” means that the chief juvenile court officer has determined that (1) the court-ordered services fall within the defined services pursuant to Iowa Code section 232.141, subsections (4) and (5), and (2) there are sufficient funds in the district’s fiscal year fund allocation to pay for all court-ordered services.

“Child” means a person less than 18 years of age. “Child” also includes a person up to 19½ years of age when (1) the person is adjudicated delinquent and the dispositional order is entered while the person is 17 years of age (in which case, the order terminates 18 months after the date of disposition), or (2) the person, as an adult, has been transferred to the jurisdiction of the juvenile court and is adjudicated as having committed a delinquent act before becoming an adult (in which case, the dispositional order automatically terminates 18 months after the last date upon which jurisdiction could attach).

“Child welfare and juvenile justice plan” means the annual plan for using decategorized funds within each department service area.

“Court-ordered services” means the defined or specific care and treatment that are ordered by the court for an eligible child and for which no other payment source is available to cover the cost.

“Department” means the department of human services.

“Eligible child” means a child who has been adjudicated delinquent, is at risk, or has been certified by the chief juvenile court officer as eligible for court-ordered services.

“Graduated sanction services” means life skills; school-based supervision; supervised community treatment; and tracking, monitoring, and outreach. Graduated sanction services are provided in community-based settings to children who are adjudicated delinquent or who are at risk of adjudication. Services are directed to help children transition into productive adulthood and to prevent or reduce criminal charges, out-of-home placement, and recidivism. Graduated sanction services are also known as “early intervention and follow-up services” or “community-based delinquency programs.”

“Juvenile court officer” means a person appointed as a juvenile court officer or a chief juvenile court officer under Iowa Code chapter 602.

“Provider” means a public agency, including a school district or government unit, or a private agency, organization or eligible individual authorized to do business in the state. The provider is also known as the claimant.

441—151.2(232) Administration of funds for court-ordered services and graduated sanction services. Pursuant to the authority granted in Iowa Code chapters 232, 602, 7E, and 8 and the annual appropriations Acts, the executive branch, represented by the department, and the judicial branch, represented by the state court administrator and the chief juvenile court officers, are each charged with specific responsibilities for funding, administering, and providing graduated sanction services and court-ordered services.

151.2(1) Allocations for court-ordered services. Court-ordered services are funded by an appropriation made to the department for allocation by the state court administrator.

a. The state court administrator shall allocate the funds, minus the administrative set-aside specified in the appropriations bill, to the eight judicial districts for the payment of the expenses of court-ordered services provided to juveniles that are a charge upon the state pursuant to Iowa Code section 232.141, subsection (4), and also as allowed by subsection 5.

b. The state court administrator may use not more than the administrative set-aside, specified in the appropriations bill, for the costs of administering the court-ordered services program, including the costs of travel associated with court-ordered placements, that are a charge to the state pursuant to Iowa Code section 232.141, subsection (4).

c. The state court administrator shall allocate the funds, minus the administrative set-aside, among the judicial districts on or before the date directed by the legislature.

(1) The state court administrator shall base the allocation on each district’s respective portion of the statewide population of children as reported in current census data.

(2) The source of the census data shall be determined and agreed upon by the state court administrator and the chief juvenile court officers.

151.2(2) Allocations for graduated sanction services. Graduated sanction services are funded by an appropriation to the department. The department allocates the funds to the state court administrator and to the chief juvenile court officers for administration. The funds are allocated and administered as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

a. The department shall allocate a set-aside amount up to, but not to exceed, 10 percent of the total allocation for graduated sanction services for the state court administrator to pay the administrative costs of the graduated sanction services, including the costs of a court accountant auditor position established in each judicial district.

b. The state court administrator shall:

(1) Establish and implement a written job classification and pay schedule for the court accountant auditor positions; and

(2) Administer the set-aside for the eight judicial districts.

c. The department shall allocate the funds for each of the four graduated sanction programs, minus the administrative set-aside, among the eight judicial districts based on each district's respective portion of the statewide population of children as reported in current census data. The source of the census data shall be determined and agreed upon by the department and the chief juvenile court officers.

151.2(3) Transfer of funds to a decategorization governance board for administration. Funds allocated to a district for court-ordered services or graduated sanction services, less the administrative set-asides, may be transferred to a decategorization governance board for administration.

a. To initiate a transfer of funds to a decategorization governance board:

(1) The chief juvenile court officer shall submit to the chair of the decategorization governance board a written notice of intent to transfer the funds to the board. The chief shall include in the notice a statement identifying any special conditions or limitations to which the funds would be subject. If no statement identifying any special conditions or limitations to which the funds would be subject is included, then no special conditions or limitations apply.

(2) The chair of the decategorization governance board shall provide the chief juvenile court officer with a written statement of acceptance of the funds; otherwise the chief juvenile court officer shall not transfer the funds. When the chief juvenile court officer has identified special conditions or limitations that apply to the funds, the decategorization governance board chair's signature on the written statement of acceptance of the funds indicates agreement with the special conditions or limitations.

(3) The chief juvenile court officer shall submit the written request to transfer the funds and the written statement of acceptance to the department.

b. The department must receive a signed agreement transferring the funds before the department signs any contract using the funds.

c. The decategorization governance board may authorize the chief juvenile court officer to act on behalf of the decategorization governance board in the administration of the funds, but is not required to do so. An authorization from the decategorization governance board granting authority to the chief juvenile court officer to act on behalf of the decategorization governance board in the administration of the funds must be in writing and must be received by the department before the department representative signs any contract using the funds. The request and authorization to administer the funds may be included in the request and agreement to transfer the funds.

d. Funds transferred to a decategorization governance board for administration are subject to the same audit requirements as specified in 151.6(1).

151.2(4) Availability of funds. The chief juvenile court officers, the state court administrator, and the department shall monitor the availability of the court-ordered services

funds to ensure that funds are available within each district throughout the state fiscal year. The chief juvenile court officers and the department shall monitor the availability of the graduated sanction services funds to ensure that the funds are available within each district throughout the state fiscal year.

a. The department shall provide to each court accountant auditor at the start of each state fiscal year a blank electronic report, known as the "Y" form, as well as a spreadsheet showing the amount of the district's allocations for graduated sanction services.

b. The state court administrator shall determine and provide to each district at the start of each state fiscal year the amount of the district's allocation for court-ordered services.

c. Each court accountant auditor shall:

(1) Enter the beginning annual allocation on the "Y" form for court-ordered services and for each graduated sanction service;

(2) Enter on the "Y" form each month the monthly expenditures and transfers of funds to and from each service; and

(3) Submit each month to the department's division of fiscal management the "Y" form showing the monthly balance of service funds, as well as the cumulative expenditures and fund transfers for each service for the district.

d. The department shall:

(1) Use the information provided by each court accountant auditor to prepare each month an electronic report, known as the Form Y Summary, showing the statewide balance of service funds, as well as the cumulative expenditures and fund transfers for each service for each district; and

(2) Distribute the Form Y Summary monthly to the state court administrator and to department and juvenile court services management.

e. The chief juvenile court officers, in consultation with the department or the state court administrator, shall reallocate funds as needed to ensure the availability of graduated sanction services or court-ordered services on a statewide basis throughout the state fiscal year.

f. If funding for either graduated sanction services or court-ordered services is exhausted in any district, the respective services within that district shall be discontinued.

441—151.3(232) Administration of juvenile court services programs within each judicial district. Each chief juvenile court officer is responsible for the administration of the court-ordered services and graduated sanction services within the judicial district. The chief juvenile court officer shall purchase court-ordered services and graduated sanction services on behalf of eligible children within the judicial district.

151.3(1) Planning for service needs.

a. Each chief juvenile court officer shall develop a process for determining:

(1) The service needs of the children within the district; and

(2) The mix of services to be provided to best meet the identified needs within the district.

b. Each chief juvenile court officer and service area manager shall develop, sign, and implement an annual plan for prioritizing and allocating decategorized funds within each department service area. The plan shall be known as the child welfare and juvenile justice plan.

c. Each chief juvenile court officer shall develop procedures to evaluate and improve the quality and effectiveness of the services being provided. The chief juvenile court officer shall make recommendations concerning changes in the child welfare system that are needed to ensure that children and families receive the services necessary to meet their

HUMAN SERVICES DEPARTMENT[441](cont'd)

unique needs. These recommendations may be incorporated into the annual child welfare and juvenile justice plan.

151.3(2) Eligible providers. The chief juvenile court officer shall purchase court-ordered services or graduated sanction services from public or private agencies, organizations, or eligible individuals. To be eligible to provide services, the individual shall meet one of the following criteria:

- a. Have a federal identification number; or
- b. Have a social security number for which the state accounting enterprise has determined that an employee/employer relationship with the state does not exist; or
- c. Be paid an amount during a state fiscal year that does not exceed \$1,000 plus allowable expenses such as meals, lodging, and mileage per state fiscal year as determined according to state accounting enterprise procedure 240.102.

151.3(3) Allowable costs. The administrative and program requirements of this chapter include those costs specified below:

- a. Reimbursement for mileage, meals, and lodging expenses involved in the transportation of the child shall not exceed the lower of the rates set by the state executive council or the provider's customary rate, unless the transportation is provided by a public officer or employee. A public officer or employee, other than a state officer or employee, is entitled to be paid for expenses as specified in the Iowa Code in an amount as determined:

- (1) By the public officer's or employee's local governing board when the court order specifies that the public officer or employee is to provide the transportation. The allowable expenses for which sheriffs may be reimbursed are found at Iowa Code sections 70A.9 and 331.655.

- (2) By the chief juvenile court officer when the court order does not specify that the public officer or employee is to provide the transportation.

- b. For Medicaid-covered services, the provider shall be reimbursed at the same rate and duration as Medicaid reimburses under the fee schedule provided in 441—subrule 79.1(2) unless the chief juvenile court officer determines that a rate negotiated with the provider may be paid.

- c. A provider with a purchase of service contract for a similar service shall be reimbursed at the rate of the purchase of service contract. A provider that does not have a purchase of service contract shall be reimbursed at a rate comparable to the rate reimbursed to providers that have purchase of service contracts.

- d. Private insurance allowances may be supplemented up to, but shall not exceed, the amounts allowed in this subrule. Funds for court-ordered care and treatment or graduated sanction services shall not be used in lieu of private insurance.

- e. A provider shall not be reimbursed at a rate that is greater than that allowed by administrative rules. Reimbursement paid to a provider shall be considered paid in full unless the county voluntarily agrees to pay the difference between the reimbursement rate and the actual costs of the service. When there are specific program regulations prohibiting supplementation, such as the prohibition of supplementation of Medicaid reimbursement, those regulations shall be applied to providers requesting supplemental payments from a county.

151.3(4) Record keeping. The provider and juvenile court services shall maintain financial and service records for a period of five years following termination of services. The records are subject to audit.

- a. Each provider shall maintain all the financial and service records used to submit or substantiate claims for reim-

bursment, including court orders, as required, and lists of children. The provider bears ultimate responsibility for the completeness and accuracy of the claim submitted as set forth in these rules.

- b. Each provider shall maintain all the corresponding service and financial information necessary to document the provision of the service as agreed upon in the contract. When the contract identifies units of service to be provided, each provider shall maintain a case record or case file that documents the provision of the units of the contracted service for each individual child for whom a claim is made.

- c. Each juvenile court officer shall maintain a case record for each child referred for graduated sanction service. Each juvenile court officer shall maintain a case file for each child who receives an ongoing service. The case record or case file shall include all the corresponding service information necessary to document that the contracted service was provided.

- d. Each chief juvenile court officer shall ensure that an original court order supports the payment of any claim paid for court-ordered services.

- e. Each chief juvenile court officer shall ensure that the district is accountable for payments, receipts, and retention of records as described in subrule 151.4(7).

151.3(5) Access to records. Each provider of court-ordered services or graduated sanction services shall make available upon request to juvenile court services, the department, the department of inspections and appeals, or the state auditor the service and financial records used to support or substantiate claims for reimbursement, including court orders and lists of children. The records shall be subject to audit by juvenile court services, the department, the department of inspections and appeals, or the state auditor.

441—151.4(232) Billing and payment. The chief juvenile court officer shall ensure that billing and payment are in compliance with department requirements and the requirements of the accounting policies and procedures manual of the department of administrative services, state accounting enterprise. A claim that meets the requirements of this chapter becomes a state liability on the date of a claim's accrual. The date of the claim's accrual is the date the service was provided or the end of the agreed-upon billing interval specified in the contract.

151.4(1) Claim forms and instructions. The instructions and forms used for billing shall be available to the provider from each juvenile court services office. Electronic versions of all forms are available.

- a. Court-ordered services.

- (1) The provider shall prepare a claim for court-ordered services on Form GAX, General Accounting Expenditure, and Form 470-1691, Claim for Juvenile Court Services Programs, or a facsimile thereof. An original, itemized invoice may be substituted for Form 470-1691.

- (2) The provider shall attach a copy of the applicable court order with each initial claim for court-ordered services. Each subsequent claim shall include the first page of the applicable court order, or the case number of the applicable court order shall be entered on Form GAX or Form 470-1691.

- b. Life skills, supervised community treatment, and tracking, monitoring, and outreach.

- (1) The provider shall prepare a claim for life skills, supervised community treatment, and tracking, monitoring, and outreach on Form GAX, General Accounting Expenditure.

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(2) The provider shall also submit Form 470-1691, Claim for Juvenile Court Services Programs, a facsimile thereof, an original, itemized invoice, or a copy of the provider's list of the children for whom the claim is made. The document submitted shall include the name of each child and the number of units of service provided to that child each month.

c. School-based supervision. The provider shall prepare a claim for school-based supervision on Form GAX, General Accounting Expenditure.

151.4(2) Preparation of claim. Form GAX, General Accounting Expenditure, shall be submitted with all claims. The Form GAX submitted shall not include claims for more than one fiscal year. The provider, as vendor, must enter on Form GAX:

- a. The vendor code,
- b. The vendor's name and mailing address,
- c. The vendor's invoice date and number,
- d. A short description of the item or service that was purchased,
- e. Either the provider's social security number, federal identification number, or tax identification number, and
- f. An original signature of the provider unless an original invoice is submitted.

151.4(3) Support of claim. The provider bears ultimate responsibility for the completeness and accuracy of each claim submitted. The provider must maintain a record of the days and times during which each service was provided for each child. The provider's record must correspond to the units billed.

151.4(4) Submittal of claims to juvenile court services. Providers shall submit claims to the chief juvenile court officer in the judicial district in which the service was provided. The provider shall submit the original Form GAX and any required supporting documents to the chief juvenile court officer for each claim.

a. Claims shall be submitted timely to allow the chief juvenile court officer to submit the claim to the department within 90 calendar days of the date of the claim's accrual.

b. To ensure payment from funds appropriated for the fiscal year, claims shall be submitted timely to allow the chief juvenile court officer to submit the claim to the department within 45 calendar days of fiscal year end, June 30.

151.4(5) Review and approval of claims. The chief juvenile officer is responsible for accuracy and disposition of claims. The chief juvenile officer shall verify the accuracy of the provider's billings and approve the claims.

a. Juvenile court services may complete Form GAX when the provider submits an original invoice or may enter the following information on Form GAX when the provider has omitted the form:

(1) The name and mailing address of the agency or individual providing the services.

(2) A short description identifying the specific services or item purchased. The description will be entered on the warrant sent to the provider.

b. To approve the claim, the chief juvenile court officer or designee shall sign Form GAX in the space titled, "order approved by." The signature shall be deemed as certification that the billed expenses were incurred, that the amounts are correct, and that payment should be made by the department.

151.4(6) Juvenile court services submittal of claims to department. The chief juvenile court officer shall prepare and submit claims to the department. Juvenile court services shall make the required number of copies for submittal and shall submit the required documents to the Department of

Human Services, Division of Fiscal Management, Bureau of Purchasing, Payments and Receipts, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. The documents required to be submitted are as follows:

a. New contract. For the first claim submitted for a new contract, juvenile court services must submit:

(1) Two copies of the signed contract.

(2) Three copies of Form 470-0022, Pre-Contract Questionnaire.

(3) The original and two copies of Form GAX, showing the contract number.

b. Ongoing contract. For subsequent claims for contract payment, juvenile court services shall submit the original and two copies of Form GAX, which shall include the following information:

(1) The contract number.

(2) The warrant number.

(3) The paid date, which is the date the first claim was processed through the I-3 system and is stamped on the first warrant the provider receives through the contract.

(4) The reference document number of the initial voucher of the series to which the contract is attached (the reference document number is the 11-digit number listed under "Departmental Reference Numbers" on the warrant, starting with "413-").

(5) The payment number of the total contracted sequence, if known, such as "payment 7 of 12 payments."

c. Contract amendment. For each contract amendment, juvenile court services must submit:

(1) The original and two copies of Form GAX;

(2) Two copies of the signed amendment; and

(3) Three copies of Form 470-0022, Pre-Contract Questionnaire.

151.4(7) Claim records. The chief juvenile court officer shall have responsibility for retention of records, maintenance of records, and authorized access to records.

a. Juvenile court services shall retain one copy of the claim and supporting documentation as submitted to the department as well as any additional required supporting documentation submitted to juvenile court services by the provider. The copy of Form GAX and supporting documentation, as submitted to the department, as well as any additional required supporting documentation submitted to juvenile court services by the provider, are subject to audit.

b. Each chief juvenile court officer shall establish a system for retention of the records in an organized, audit-friendly manner. During the required retention period, the records and knowledgeable personnel must be accessible and available for the audit. All documents related to each other must be appropriately attached and organized in a manner that provides easy access.

151.4(8) Claim payment. The department shall reimburse providers for contract costs when claims are submitted according to the required procedures.

a. The bureau of purchasing, payments and receipts of the division of fiscal management shall process a claim through the state appeal board's administrative process for approving outdated invoices when the department receives the claim:

(1) More than 90 calendar days after the date of its accrual; or

(2) More than 45 calendar days after the date of its accrual at fiscal year end, June 30.

b. If the claim cannot be processed through the state appeal board's administrative process for approving outdated

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invoices, the claim must be submitted to the state appeal board for approval.

441—151.5(232) Appeals. If services are court-ordered, children who have been adversely affected by decisions made by juvenile court and their parents or guardians may appeal through procedures established pursuant to Iowa Code section 232.133.

441—151.6(232) District program reviews and audits. Each chief juvenile court officer shall establish procedures to review and audit the provision of the graduated sanction services to ensure that the requirements of this chapter and the contracts are met. The court accountant auditor as established according to subrule 151.2(2) shall conduct the reviews and audits.

151.6(1) Schedule. The department shall notify each chief juvenile court officer or designee of the providers for which a review and audit must be conducted. The department shall identify in the notice all other judicial districts that have a contract with the provider.

a. Annual on-site reviews and audits are required for any provider having one or more contracts with one or more judicial districts when the total annual value of the contracts is \$100,000 or more.

b. An on-site review and audit are required for each provider new to the district during the first year of the provider's contract with the district when the total annual value of the provider's contracts with the judicial district is \$50,000 or more.

c. Additional on-site reviews and audits are optional but may be considered appropriate by the chief juvenile court officer for providers, other than those described in paragraphs "a" and "b," based on factors such as:

- (1) Length of time provider has been in business.
- (2) Amount of time provider has offered the services being purchased.
- (3) Type of service or program being purchased.
- (4) Amount of money involved in the contract.
- (5) Whether other governmental entities contract with this provider.

(6) Findings from previous audits by the district, the department, or other entities such as the state auditor's office.

151.6(2) Location. The reviews and audits shall take place at the sites where the program is operated and where necessary program and fiscal records are maintained.

151.6(3) Scope. The court accountant auditor shall review and audit the provider's service and financial records, including the client case records and case files, to ensure that the records contain the required documentation of the provision of the contracted service for each individual child for whom a claim is made. The reviews and audits shall include:

- a. Contact with the client.
- b. Review and audit of service billings and delivery of service.
- c. Review and audit of provider standards, staff qualifications, case files and case records, progress reports, and billing and payment records.

151.6(4) Repayment. The chief juvenile court officer may seek repayment of claims paid for noncovered services or for services for which documentation is not established.

a. The chief juvenile court officer shall notify the provider in writing that a repayment is due. The written notice shall identify:

- (1) The claims;

(2) The amounts of the claims that are not documented or substantiated; and

(3) The amount of the repayment requested.

b. The provider shall repay the department the difference between the amount received and the amount established through the audit, not to exceed the amount paid by the state, when:

(1) The provider, upon audit, fails to verify or document the provision of covered services or costs in the amount for which a claim was paid or when the audit confirms claims paid for noncovered services; and

(2) Juvenile court services or the department makes a request for repayment.

c. The provider shall repay the department for the amount of any claims not supported by audit when:

(1) The provider fails to maintain adequate records for auditing purposes or fails to make records available for audit or when the records, upon audit, fail to support the claims submitted; and

(2) Juvenile court services or the department makes a request for repayment.

d. A provider that is adversely affected by the request for repayment may appeal using procedures established in 441—Chapter 7.

e. If the provider does not make payment within 45 days, the chief juvenile court officer shall submit to the department a copy of the notice to the provider for the department's further review and action if necessary.

151.6(5) Report. Each chief juvenile court officer shall submit to the department an annual report of the district's review and audit activities for each state fiscal year.

a. The annual report shall be submitted by December 31 following the end of the state fiscal year. This date may be extended upon the written request of the chief juvenile court officer to the department.

b. The annual report shall include a report of the results of the review and audit for each required audit as well as a summary of the findings of the reviews and audits conducted on any other providers receiving state or federal funds in the state fiscal year.

These rules are intended to implement Iowa Code section 232.141.

441—151.7 to 151.19 Reserved.

ITEM 3. Amend **441—Chapter 151, Division II**, preamble, as follows:

DIVISION II

COURT-ORDERED CARE AND TREATMENT SERVICES

PREAMBLE

These rules prescribe the responsibilities of the ~~state court administrator, the department, the chief juvenile court officer~~ *officers and the judicial district planning committee department of human services* for the administration of court-ordered services. In addition, these rules prescribe a list of expenses that are eligible for reimbursement and a list of expenses that are ineligible for reimbursement. The lists are intended to be exhaustive.

ITEM 4. Rescind rules 441—151.20(232) and 441—151.21(232) and adopt the following **new** rules in lieu thereof:

441—151.20(232) Juvenile court services responsibilities. The chief juvenile court officer shall purchase court-ordered

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services for eligible children pursuant to the authority of a court order and the certification of the court.

151.20(1) The chief juvenile court officer shall have the opportunity to establish the availability of funds before a request for court-ordered services is presented to the court.

151.20(2) Any services that are provided without the signed approval of the chief juvenile court officer or the chief juvenile court officer's designee may be denied payment, unless there is an emergency or after-hours situation and no other provision exists for handling emergency or after-hours situations or transports.

151.20(3) A district or juvenile court shall not order any service that is a charge upon the state pursuant to Iowa Code section 232.141 if there are insufficient court-ordered services funds available in the district court distribution amount to pay for the service.

151.20(4) The chief juvenile court officer shall encourage use of the funds in the district's fiscal year fund allocation such that there are sufficient funds during the entire year to pay for all court-ordered services.

a. The chief juvenile court officer shall establish service priorities for spending the court-ordered services funds allocated to the district.

b. The chief juvenile court officer shall inform the state court administrator of potential shortfalls in the district's distribution amount and shall request the state court administrator to transfer funds between the districts' distribution amounts as prudent.

c. The chief juvenile court officer shall notify the state court administrator and the chief judge of the district in the event that the court-ordered services funds for the judicial district are exhausted.

441—151.21(232) Certification process. The chief juvenile court officer shall determine the certification of the court for each ordered service.

151.21(1) Application for court-ordered services. Any party intending to request court-ordered services funds shall complete an application and receive approval for the funding request from the chief juvenile court officer before making the request to the court.

a. The application form with instructions shall be available upon request from the office of each chief juvenile court officer.

b. The applicant shall have verified that there are no other alternative funding sources for the service.

c. The chief juvenile court officer may establish procedures for handling emergency or after-hours situations and for the handling of transports.

151.21(2) Determination. The chief juvenile court officer shall determine whether the requested service is eligible for reimbursement and shall certify that there are sufficient funds available to pay for the service. The chief juvenile court officer shall determine whether:

a. The requested service falls within the court-ordered services expenses defined in Iowa Code section 232.141, subsections (4) and (5), and subrule 151.22(1); and

b. There are sufficient funds in the district's fiscal year fund allocation to pay for the requested service.

151.21(3) Use of other funding sources. The department, in cooperation with the chief juvenile court officers, shall ensure that the funds allocated for court-ordered services are spent only after all other reasonable actions have been taken to use other funding sources. Services are not eligible for reimbursement when another payment source is available.

a. Medicaid. The department shall maximize the use of funds that may be available from the Medicaid program, in-

cluding coverage for early and periodic screening, diagnosis, and treatment and for psychiatric medical institutions for children (PMIC), before requesting assistance through the court-ordered services fund. However, medical cost sharing for the one-time payment per court order of a deductible amount or a coinsurance amount for treatment specified in a court order is an allowable expense that may be paid through the court-ordered services fund when insurance or Medicaid is then available to pay the remainder of the cost.

b. Other third-party payments. The department shall recover payments from any third-party insurance carrier that is liable for coverage of the services, including health insurance coverage. The department shall submit claims to third-party insurance carriers liable for coverage of the services before the claims are submitted for payment through the court-ordered services fund.

c. The date of a medical claim's accrual for reimbursement through court-ordered services is the date the claim becomes a state liability. For example, a claim becomes a state liability on:

(1) The date of a court order for a contested claim; or

(2) The date of a determination by Medicaid or private insurance that Medicaid or private insurance denies partial or full payment for care and treatment for which an application has been made.

d. If eligible for reimbursement through the court-ordered services fund, medical claims that are submitted to, but are denied by, Medicaid or private insurance shall be paid at a rate not to exceed the rate set by Medicaid.

151.21(4) Certification. The chief juvenile court officer or designee shall approve or disapprove the request for funds and shall sign and return the application to the applicant.

a. If the request is disapproved, the applicant must approach another service.

b. If the request is approved, the service plan may be presented to the court for a court order to be issued for the services.

151.21(5) Allowable rates not available. When the department has been unable to establish an allowable rate of reimbursement for a service or a provider, the chief juvenile court officer shall negotiate a reimbursement rate with the provider to obtain the service at a reasonable cost based on available community or statewide rates.

ITEM 5. Amend rule 441—151.22(232) as follows:

Amend the introductory paragraph as follows:

441—151.22(232) Expenses. The following lists of expenses that are either eligible or ineligible for reimbursement *from the court-ordered services fund* are intended to be exhaustive. ~~The judicial district planning committee shall review any expense for a service not listed below to determine if the expense should be paid from the judicial district's court-ordered care and treatment fund. If payment of the expense would not be in conflict with current law or administrative rules and meets the criteria of the judicial district planning committee, this fund shall be used to reimburse the provider. In the event that court-ordered care and treatment funds are exhausted in any judicial district, the chief judge of the district shall be notified by the chief juvenile court officer. Billings for services not listed in subrule 151.22(1) shall not be paid except as provided in subrule 151.22(3).~~

Amend subrule **151.22(1)** as follows:

Amend paragraph "**b**" by adopting **new** subparagraph **(13)** as follows:

(13) Expenses for educational testing or programs related to a general equivalency diploma (GED) or for credit

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hours, when the expenses are not required to be paid by the state.

Adopt **new** paragraph “c” as follows:

c. Medical cost sharing for payment of one deductible amount or a coinsurance amount when Medicaid or private insurance is then available to pay the remainder of the cost.

Amend subrule 151.22(2) as follows:

Amend the introductory paragraph as follows:

151.22(2) Expenses not reimbursed. Expenses that are excluded from reimbursement from court-ordered services funds because another provision exists in the law source is available to pay for the service include:

Amend paragraphs “i” and “j” as follows:

i. Expenses for all educational testing or programming required to be paid by the state, except for juveniles who attend an on-campus school in an out-of-state facility and who are not weighted as special education students. The payment provision is Iowa Code chapter 256.

j. Expenses, except for the allowable medical cost sharing, for all court-ordered counseling and treatment for adults, including individual, marital, mental health, substance abuse and group therapy. Payment The payment provision is private insurance, Medicare, Medicaid, or other resources consistent with Medicaid and social services eligibility and Iowa Code chapter 249A.

Adopt **new** paragraph “k” as follows:

k. Expenses, except for the allowable medical cost sharing, for psychiatric medical institutions for children (PMIC). The payment provision is private insurance, Medicare, Medicaid, or other resources consistent with Medicaid and social services eligibility and Iowa Code chapter 249A.

Adopt **new** subrule 151.22(3) as follows:

151.22(3) Services not listed. If a court orders a service not currently listed in subrule 151.22(1), the chief juvenile court officer shall review the order and shall consult with the department. If reimbursement for the service expense is not in conflict with current law or administrative rules and meets the criteria for certification of the court, the chief juvenile court officer shall authorize reimbursement to the provider.

ITEM 6. Amend **441—Chapter 151, Division III**, preamble, as follows:

DIVISION III

GRADUATED SANCTION SERVICES

PREAMBLE

The graduated sanction services were initiated in 1994 as are early intervention and follow-up services to be provided to children adjudicated delinquent or and to children who are evaluated by a have been referred to juvenile court officer or designee to be at risk of such an adjudication services for a delinquency violation or who have exhibited behaviors likely to result in a juvenile delinquency referral. The services are directed to enhance personal or interpersonal adjustment and to help the children transition into productive adulthood and thereby to prevent or reduce criminal charges, initial out-of-home placement, and recidivism. The services are provided in the child's home community.

The graduated sanction services are life skills, school-based supervision, supervised community treatment, and tracking, and monitoring, and outreach. Together this mix of services and the flexibility allowed in tailoring the services to meet specific needs offers offer a choice of treatment to meet the specific needs of the child.

ITEM 7. Amend rule 441—151.30(232) as follows:

Amend the introductory paragraph as follows:

441—151.30(232) Life skills. “Life skills” means individual or group instruction which includes, but is not limited to, specific training to develop and enhance personal or interpersonal skills, interpersonal relationships, problem solving, accountability and accepting acceptance of responsibility, victim empathy, activities of daily living, and job skills.

Amend subrule 151.30(1), introductory paragraph and paragraphs “a,” “b,” and “c,” as follows:

151.30(1) Service eligibility. Children shall be eligible for life skills services without regard to individual or family income when they are adjudicated delinquent or are evaluated by a chief juvenile court officer or designee determined by a juvenile court officer to be at risk of adjudication and are also determined by the chief or designee to be in need of the service provided by a life skills program. Documentation Juvenile court services shall maintain in the child's case record or case file documentation of the child's adjudication or the at-risk of adjudication and status as well as the child's need for services shall be maintained by juvenile court services or other service agency in the child's case record or case file.

a. Chief The chief juvenile court officers officer shall establish written procedures for screening and approving referrals for life skills services. The and make the procedures for screening and approving referrals shall be included in the contract available to the district's juvenile court officers.

b. A child who is adjudicated or determined at-risk shall be eligible for life skills training when a The juvenile court officer determines shall determine the child is in child's need of for individual or group instruction in any of the life skills service components and shall refer the child for the service.

c. Juvenile A juvenile court officers officer may approve life skills services for up to six consecutive months at a time, except that service approval shall not extend beyond the current fiscal year unless a contract is in effect to assume the cost for the services provided in the next fiscal year. The officer shall reevaluate the child's eligibility and need for these services in accordance with procedures established by the respective juvenile court services district.

Amend subrule **151.30(2)** as follows:

Amend paragraph “a” by rescinding and reserving subparagraph (2) and amending subparagraphs (1) and (4) as follows:

(1) Personal or interpersonal skills, including anger management, stress reduction, and self-esteem.

(4) Accountability and accepting acceptance of responsibility.

Rescind paragraph “b” and adopt the following **new** paragraph in lieu thereof:

b. The contract must specify what is required of the provider.

Amend subrule 151.30(4), introductory paragraph and paragraphs “a” and “b,” as follows:

151.30(4) Monitoring of service delivery. Juvenile The juvenile court officers officer shall monitor the delivery of life skills services to children for whom they are the officer is responsible.

a. Monitoring The juvenile court officer shall include reviewing review provider progress reports and maintaining maintain contact with the child, the child's family, the provider, and other community agencies to adequately assess the child's progress and need for service.

b. Juvenile The juvenile court officers officer shall report problems in service delivery to the chief juvenile court officer.

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Amend subrule 151.30(5) as follows:

Amend the introductory paragraph and paragraphs “b” and “c” as follows:

151.30(5) Billable unit and rate setting. *Rates for life skills services shall be established through an agreement between the provider and the chief juvenile court officer based on the provider's proposed budget. Rates may vary among providers for various types of life skills services. The program and unit costs shall be specified in the contract.*

b. The life skills instruction may be provided on an individual or group basis. ~~An individual rate or a group rate shall be established for life skills instruction provided to more than one individual at a time. See paragraph 151.35(2) “c” for rate-setting requirements when more than one child is served at a time.~~

c. ~~Providers~~ *The provider* may incorporate the expenses for instructional materials into the service unit cost. ~~However, the provider shall be approved for reimbursement or may identify the expenses for instructional materials when these expenses are not incorporated into the service cost but are included in an attachment to the contract to be billed separately from the unit cost.~~

Rescind paragraph “d.”

Amend subrule 151.30(6), introductory paragraph and paragraphs “b” and “d,” as follows:

151.30(6) Provider standards. Providers shall have a contract with juvenile court services and the department for life skills services and agree to abide by all required instructional, reporting, rate-setting, and billing and payment procedures for life skills services. *The chief juvenile court officer shall review provider staff qualifications and training activities.* Providers of life skills services shall meet all of the following conditions. Providers shall:

b. Use staff who, in the opinion of the chief juvenile court officers officer, have the necessary training and experience to provide quality services on the topic about which they will be delivering instruction. ~~Providers shall ensure that staff involved in service delivery have opportunities for ongoing staff development and in-service training. Chief juvenile court officers shall review provider staff qualifications and training activities.~~

d. Have the educational and instructional ability, as determined by *the chief juvenile court officers officer*, to deliver life skills services to eligible children in the settings most suited to each child's needs.

Amend subrule **151.30(7)** by rescinding paragraph “c.”

Adopt **new** subrule 151.30(8) as follows:

151.30(8) Outcome measures. Each contract for purchase of life skills services shall contain a section to inform the provider that juvenile court services and the department shall track the outcome of the service provision following each child's discharge from the service received through the contract.

a. Juvenile court services and the department shall collaborate to determine the criteria and data needed to track and record the outcomes.

b. The provider shall report data as requested by juvenile court services.

c. Juvenile court services shall determine whether the child has reoffended within the 12-month period following the date of discharge from life skills. Service to a child shall be considered successful if the child has not been referred to juvenile court services for a law violation during the 12-month period following discharge from life skills.

d. Data collected on the children served and discharged shall be used to establish or modify a baseline for the provider and for the service. The data shall be used to develop in-

formation to make decisions regarding service provision and contracting.

ITEM 8. Amend rule 441—151.31(232) as follows:

Amend the introductory paragraph as follows:

441—151.31(232) School-based supervision. “School-based supervision” means a program that provides for ~~salaried~~ staff, known as juvenile court school liaisons, ~~who to be hired by providers.~~ *The juvenile court school liaisons provide on-site services at middle and high schools to children experiencing truancy or other behavior problems at home, at school, and at home or in the community.*

Amend subrule 151.31(1) as follows:

151.31(1) Service eligibility.

a. Children shall be eligible for school-based supervision services without regard to individual or family income when they are adjudicated delinquent, ~~or adjudicated a child in need of assistance or are evaluated determined~~ by a juvenile court officer or ~~designee school official~~ to be at risk of being found delinquent, ~~are determined to be a child in need of assistance and are also determined by the juvenile court officer or designee to be in need of school-based supervision services.~~ Documentation of the adjudication or the at-risk of adjudication ~~and status as well as the need for services shall be maintained by the juvenile court services or the school district liaison in the child's case record or case file.~~

a b. ~~Chief~~ *The chief juvenile court officers officer* shall establish written procedures for screening and approving referrals for school-based supervision services. ~~The chief may designate department or school staff, in addition to juvenile court officers, who may screen and approve referrals. The written procedures for screening and approving referrals shall be included in the contract made available to the juvenile court school liaisons and to the district's juvenile court officers.~~

b. ~~The child shall be eligible for school-based supervision when the juvenile court officer or designee determines the child is experiencing truancy or any other behavior problems that are causing increased problems at home, at school, or in the community. Children who meet one of these criteria may be served by a school-based supervision program. Additional eligibility criteria and service procedures may be developed for each school-based program to most effectively target resources to the specific needs of the school. These policies shall be contained in the program description and contract executed between juvenile court services, the department, and the school or provider.~~

c. Referrals shall not be made or accepted when funds for the program are not available.

Amend subrule 151.3(2), introductory paragraph, as follows:

151.31(2) Service components. ~~School-based supervision provides staff, known as juvenile court school liaisons, who provide on-site services at middle and high schools to children experiencing truancy or other behavior problems at home, at school, or in the community.~~

Amend subrule **151.31(2)**, paragraphs “a” and “b,” as follows:

a. ~~Juvenile~~ *The juvenile court officers officer, department staff, and school personnel* shall monitor the delivery of school-based supervision services to children for whom ~~they are the officer is~~ responsible.

b. ~~Juvenile~~ *The juvenile court officers officer, department staff, and school personnel* shall report problems in service delivery to the chief juvenile court officer.

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Amend subrule 151.31(5) as follows:

151.31(5) Billable unit and rate setting. The school-based supervision program is used to hire *salaried* staff, through a contract with a provider, to provide school-based supervision. The cost of the service is the cost of the salary and related administrative expenses *identified in the contract* for which the department is billed, generally monthly or quarterly.

a. The contract shall define the rate and ~~time frame~~ schedule to be used for submitting a claim for salary and related administrative expenses.

b. School-based supervision is ~~generally not an ongoing~~ provides short-term or long-term service provided to children. To substantiate claims for reimbursement, ~~the~~ The juvenile court school liaison shall maintain a list (roster), by month, of the individual children referred for service and for to whom the claim service is made provided. For a claim to be valid, ~~the school-based supervision staff~~ The juvenile court school liaison shall have face-to-face or verbal contact with each child whose name appears on the roster. The list shall include the name of the child and the referral source.

(1) The school or juvenile court services shall maintain a copy of the list and the claim. *Each claim is validated by the list of children served during each month the school is in session.* The list and the claim are subject to audit.

(2) The juvenile court school liaison is not required to list the names of children receiving group services.

(3) Juvenile ~~The juvenile~~ court school liaisons liaison and schools school are not required to maintain or submit lists of children served for those months covered by a school employee contract for which the salary is prorated when school is not in session and no service is provided. The prorated salary arrangement shall be described in the contract.

c. School-based supervision rates are based on *directives in annual legislation for the school-based appropriation as well as budget and rate-setting with procedures within each school district.* Funds allocated to the department and administered by juvenile court services equal a maximum of 75 percent of the program costs. ~~These funds shall be matched with a minimum of 25 percent of funds committed from the local school district where the program is established. The method used by the local school district in paying the local school district's share shall be specified in the contract. The chief juvenile court officer shall negotiate the match rate with the school board's authorized designee.~~

(1) The amount of dollars each chief juvenile court officer may use for school-based supervision is equal to the judicial district's current school-based supervision allocation plus an amount from the court-ordered care and treatment services allocation. *The total amount available from the court-ordered services allocation is equal to 50 percent of the school-based supervision allocation available to the district for state fiscal year 1998 or \$580,000. The state court administrator shall determine the amount from the court-ordered services allocation available to each district each year based on each district's respective portion of the statewide population of children as reported in current census data.*

(2) The chief juvenile court officer shall transfer an amount, as necessary and allowable, to the school-based supervision allocation from the court-ordered care and treatment services allocation so that the school-based supervision share of the program cost of each contract equals ~~up to 75 percent of the total program cost of agreed-upon match amount~~ for each contract.

(3) The contract shall specify that ~~up to 75 the maximum~~ percent percentage of the program cost that shall be paid

from the school-based supervision funds ~~and that a as well as the minimum of 25 percent percentage~~ of the program cost that shall be paid by the school district.

(4) ~~A chief juvenile court officer may use funds from an alternative source to replace all or some of the percent due from the school-based supervision funds or the school district, but at no time shall the state's school-based supervision share exceed 75 percent of the program cost.~~

Amend subrule 151.31(6) as follows:

Amend the introductory paragraph as follows:

151.31(6) Provider standards *Selecting schools for programs.* The chief juvenile court officer of each judicial district shall be responsible for selecting school-based programs for funding and for managing the judicial district's school-based supervision allocation to ensure that resources are targeted effectively among schools within the district. All applications for funding and subsequent contracts shall contain funding commitments from the local school district for the local school district's share of program costs.

Rescind paragraph "a" and adopt the following **new** paragraph in lieu thereof:

a. The chief juvenile court officer may elect to develop an intergovernmental 28E agreement with the school district, or the school district may request that a contract be developed with an independent provider pursuant to a competitive bid.

Amend paragraph "b" as follows:

b. School districts shall make arrangements for the timely payment of program matching funds either to the department or directly to the provider through appropriate school procedures. ~~These~~ The funding arrangements shall be defined described in the contract.

Adopt **new** subrule 151.31(8) as follows:

151.31(8) Outcome measures. Each contract shall contain a section to inform the provider that juvenile court services and the department shall track the outcome of the service provision for each child who is served through the contract and meets predetermined contact criteria.

a. Juvenile court services and the department shall collaborate to determine preservice and postservice measures needed to track and record outcomes such as attendance, truancy, tardiness, suspensions, law violations, and grade-point average.

b. The juvenile court school liaison shall report data as requested by juvenile court services.

c. Data collected on the children shall be used to establish or modify a baseline for the provider and for the service. The data shall be used to develop information to make decisions regarding service provision and contracting.

ITEM 9. Amend rule 441—151.32(232) as follows:

Amend the introductory paragraph as follows:

441—151.32(232) Supervised community treatment. "Supervised community treatment" means a program that provides supervised educational support and treatment during the day to children who are experiencing social, behavioral, or emotional problems that place them at risk of group care or state institutional placement. *A supervised community treatment program for a child may be funded from multiple sources. A program whose components and activities are funded from multiple sources must be capable of tracking the receipt and expenditure of funds for the components and activities, and these funding streams must be described in the contract.*

Amend subrule 151.32(1), introductory paragraph and paragraphs "a," "b," and "d," as follows:

151.32(1) Service eligibility. Children shall be eligible for supervised community treatment services without regard

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to individual or family income when they are adjudicated delinquent or are ~~evaluated~~ *determined* by a chief juvenile court officer or designee to be at risk of adjudication and the chief officer or designee determines that the child is experiencing social, behavioral, or emotional problems that put the child at risk of group care or state institutional placement ~~to be in need of service provided by a supervised community treatment program. Documentation~~ *Juvenile court services shall maintain documentation in the child's case file of the adjudication or at-risk of adjudication and status as well as of the need for services shall be maintained by juvenile court services or other service agency in the child's case record or case file.*

a. The chief juvenile court officer shall establish written procedures for screening and approving referrals for supervised community treatment services. ~~The written procedures for screening and approving referrals shall be included in the contract make the procedures available to the district's juvenile court officers.~~

b. ~~The child juvenile court officer shall be determined as having a determine the child's need for supervised community treatment when the juvenile court officer determines the child is experiencing social, behavioral, or emotional problems that put the child at risk of group care or state institutional placement and shall refer the child for service.~~

d. ~~Juvenile~~ A juvenile court officers officer may approve supervised community treatment services for up to six consecutive months at a time, except that service approval shall not extend beyond the current fiscal year unless a contract is in effect to assume the cost for the services provided in the next fiscal year. The officer shall reevaluate the child's eligibility and need for these services in accordance with the procedures established by the chief juvenile court officer.

Amend subrule 151.32(2) as follows:

Amend the introductory paragraph, first unnumbered paragraph, and paragraphs "a," "d," and "e," as follows:

151.32(2) Service components. Supervised community treatment programs provide treatment to children as well as ~~providing children an opportunity for children to participate in state-funded educational programming. Supportive therapy or counseling and skill development services may be provided through this program to the child's family.~~

Supervised community treatment programs may be co-located with school programs. Although the costs of ~~the state-funded educational programming shall not be funded through the supervised community treatment appropriation, programs shall be developed so that there is close coordination between the treatment and the state-funded educational and treatment components. Supervised community treatment programs shall be developed in accordance with the following characteristics and treatment components:~~

a. ~~Children shall attend the noneducational The non-state-funded educational portion of the program shall be available for children to attend at least three hours per day for at least three days per week. Children may attend less than three hours per day and less than three days per week, but the attendance must be planned and must be specified in the child's treatment plan. Components or activities of the program may be funded from different sources.~~

d. Snacks and meals shall be provided as necessary throughout the ~~noneducational non-state-funded educational~~ portion of the program day.

e. Supervision and support services, such as transportation to the ~~noneducational non-state-funded educational~~ program, family outreach, telephone contact, and electronic monitoring of children, shall be provided when necessary.

Adopt **new** paragraphs "g" and "h" as follows:

g. Supervision and support services shall be provided when necessary to help children transition out of the program.

h. The contract must specify the responsibilities of the provider.

Amend subrule 151.32(4), introductory paragraph and paragraphs "a" and "b," as follows:

151.32(4) Monitoring of service delivery.

a. ~~Juvenile~~ The juvenile court officers officer shall monitor the delivery of supervised community treatment services to children for whom they are the officer is responsible.

a. ~~Monitoring~~ The juvenile court officer shall include reviewing review provider progress reports and maintaining maintain contact with the child, the child's family, the provider, and other community agencies to adequately assess the child's progress and need for service.

b. ~~Juvenile~~ The juvenile court officers officer shall report problems in service delivery to the chief juvenile court officer.

Amend subrule 151.32(5), introductory paragraph and paragraphs "b" and "e," as follows:

151.32(5) Billable unit and rate setting. *Rates for supervised community treatment shall be established through an agreement between the provider and the chief juvenile court officer, based on the provider's proposed budget. The billable unit and costs shall be specified in the contract.*

b. The supervised community treatment service may be provided on an individual or group basis. *See paragraph 151.35(2) "c" for rate-setting requirements when more than one child is served at a time.*

e. Different rates may be established for the different components of the supervised community treatment program, and different sources of payment may be used for the different components.

(1) Provision may be made in the contract for the billing and payment of telephone or transportation costs *to be included in the unit cost, or the provider may, in an attachment to the contract, identify the expenses to be billed separately from the unit cost.*

(4) ~~Transportation costs may be included in the unit cost or may be reimbursed separately.~~

(2) Telephone calls may be reimbursed per receipts or at a set rate per call.

Amend subrule **151.32(7)** by rescinding paragraph "c."

Adopt **new** subrule 151.32(8) as follows:

151.32(8) Outcome measures. Each contract shall contain a section to inform the provider that juvenile court services and the department shall track the outcome of the service provision following each child's discharge from the service received through the contract.

a. Juvenile court services and the department shall collaborate to determine the criteria and data needed to track and record the outcomes.

b. The provider shall report data as requested by juvenile court services.

c. The department shall make a determination six months following each child's discharge as to whether the child is in foster family care, group care, or institutional placement. Service to a child shall be considered successful if:

(1) The child is living at home even when less intensive services are provided; or

(2) The child is in supervised apartment living.

d. Data collected on the children served and discharged shall be used to establish or modify a baseline for the provider and for the service. The data shall be used to develop in-

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formation to make decisions regarding service provision and contracting.

ITEM 10. Amend rule 441—151.33(232) as follows:

Amend the introductory paragraph as follows:

441—151.33(232) Tracking, monitoring, and outreach. Tracking, monitoring, and outreach means those activities of tracking, guidance, monitoring, advocacy, and outreach are undertaken to provide individualized and intensive one-to-one intervention to a child to help the child establish positive behavior patterns and to help the child maintain accountability in a community-based setting.

Amend subrule 151.33(1), introductory paragraph and paragraphs “a” and “c,” as follows:

151.33(1) Service eligibility. Children shall be eligible for tracking, monitoring, and outreach services without regard to individual or family income when they are adjudicated delinquent or are evaluated *determined* by a chief juvenile court officer or designee to be at risk of adjudication and are *determined to be in need of* assistance in maintaining accountability in a community-based setting. *Documentation Juvenile court services shall maintain in the child's case record, or case file documentation of the child's adjudication or at-risk of adjudication status and need for services shall be maintained by juvenile court services or other service agency in the child's case record or case file.*

a. *Chief The chief juvenile court officers officer* shall establish written procedures for screening and approving referrals for tracking, monitoring, and outreach services. *The and make the procedures for screening and approving referrals shall be included in the contract available to the district's juvenile court officers.*

c. *Juvenile A juvenile court officers officer* may approve tracking, monitoring, and outreach services for up to six consecutive months at a time except that service approval shall not extend beyond the current fiscal year unless a contract is in effect to assume the cost for the services provided in the next fiscal year. The officer shall reevaluate the child's eligibility and need for these services in accordance with procedures established by the respective juvenile court services district.

Amend subrule 151.33(2) as follows:

151.33(2) Service components. Tracking, monitoring, and outreach *service services* may be provided seven days a week, up to 24 hours a day, and may include multiple daily contacts with the child. *The daily contacts with the child may include electronic monitoring and guidance, advocacy, or outreach. The service may include individualized interventions with the child's family.*

a. The service shall include two primary service components, and, in addition, may include any one to three secondary service component or a combination of tracking, monitoring, or outreach components as needed.

(1) “Tracking” means observing and following a child's actions.

(2) “Monitoring” means using data from tracking activity to determine that the child's actions include preselected or approved destinations.

(3) “Outreach” means guidance and advocacy.

a b. Primary service components include:

(4) Tracking, guidance and monitoring, which may include electronic monitoring. These activities are directed toward the child *child's* maintaining accountability and may include multiple daily contacts with the child through direct personal contact, telephone, or electronic monitoring devices.

(2) c. ~~Advocacy and outreach~~ Outreach activities that are designed to provide guidance and advocacy for the child and may include individualized interventions with the child's family as well as assistance in accessing the following types of resources:

- (1) ~~referral~~ Referral to community organizations,.
- (2) ~~health~~ Health services (physical and mental),.
- (3) ~~education~~ Education,.
- (4) ~~employment~~ Employment,.
- (5) ~~legal~~ Legal,.
- (6) ~~case~~ Case conferences and services planning,.
- (7) ~~diagnostic~~ Diagnostic assessment services, and.
- (8) ~~family~~ Family competency-building services.

b d. ~~Secondary service components shall be provided only in combination with a primary service component, and Outreach activities may also include guidance, recreation, and transportation when guidance and advocacy are a part of the service component.~~

e. The provider may provide tracking, monitoring, and outreach activities or may provide tracking and monitoring information to the juvenile court officer, who then determines the need for outreach. The contract must specify what is required of the provider.

Amend subrule 151.33(4), introductory paragraph and paragraphs “a” and “b,” as follows:

151.33(4) Monitoring of service delivery.

a. ~~Juvenile The juvenile court officers officer~~ shall monitor the delivery of tracking, monitoring, and outreach services to children for whom they are the officer is responsible.

a. ~~Monitoring The juvenile court officer shall include reviewing review~~ provider progress reports and maintaining maintain contact with the child, the child's family, the provider, and other community agencies to adequately assess the child's progress and need for service.

b. ~~Juvenile The juvenile court officers officer~~ shall report problems in service delivery to the chief juvenile court officer.

Amend subrule 151.33(5) as follows:

151.33(5) Billable unit and rate setting. The unit of service shall be defined in increments or a whole of as a quarter-hour, half-hour, hour, or day of service to the child, as specified in the contract.

a. The reimbursement rate shall represent actual costs.

b. For telephone contact monitoring, juvenile court services may choose to reimburse providers according to receipts or at an established flat a set rate per telephone contact call.

Amend subrule 151.33(7) as follows:

Amend paragraphs “a” and “b” as follows:

a. Providers of tracking, monitoring, and outreach services shall prepare and provide monthly written progress reports at least monthly on for each child receiving only monitoring services for three months or less.

b. Providers of tracking, monitoring, and outreach services shall prepare:

(1) Prepare and provide an initial treatment plan in consultation with the referral source within 30 days of the each child's admission for each child who receives ongoing service activities; and shall prepare

(2) Prepare and provide written progress reports at least quarterly.

Rescind paragraph “e.”

Adopt new subrule 151.33(8) as follows:

151.33(8) Outcome measures. Each contract shall contain a section to inform the provider that juvenile court services and the department shall track the outcome of the ser-

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vice provision following each child's discharge from the service received through the contract.

a. Juvenile court services and the department shall collaborate to determine the criteria and data needed to track and record the outcomes.

b. The provider shall report data as requested by juvenile court services.

c. Juvenile court services shall determine whether the child has reoffended within the 12-month period following the date of discharge from tracking, monitoring and outreach. The service to a child shall be considered successful if the child has not been referred to juvenile court services for a law violation during the 12-month period following the child's discharge from tracking, monitoring and outreach.

d. Data collected on the children served and discharged shall be used to establish or modify a baseline for the provider and for the service. The data shall be used to develop information to make decisions regarding service provision and contracting.

ITEM 11. Adopt **new** rules 441—151.34(232) and 441—151.35(232) as follows:

441—151.34(232) Administration of graduated sanction services. The chief juvenile court officer shall purchase graduated sanction services for eligible children pursuant to a contract with juvenile court services and the department.

151.34(1) Requirements. Each chief juvenile court officer shall:

a. Establish minimum qualifications for providers of graduated sanction services;

b. Establish criteria and procedures for determining when and where to develop contracts with providers to best meet the service needs of the children in the judicial district; and

c. Require providers to comply with applicable professional standards.

151.34(2) Referrals. Each chief juvenile court officer shall develop procedures for eligible children to receive graduated sanction services.

a. Children who are adjudicated delinquent or who are at risk shall apply or be referred for graduated sanction services through the juvenile court services office.

b. School officials may refer adjudicated or at-risk children for school-based supervision services in schools where school-based supervision programs are established.

151.34(3) Adverse actions. Graduated sanction services shall be reduced or terminated when:

a. The court orders discontinuation of services; or

b. The juvenile court officer determines that there is no longer a need for service; or

c. The juvenile court officer determines that maximum benefit of service provision has been achieved; or

d. The funds allocated or appropriated for these services are exhausted.

441—151.35(232) Contract development for graduated sanction services. The chief juvenile court officer shall have the responsibility to purchase graduated sanction services (life skills; school-based supervision; supervised community treatment; or tracking, monitoring, and outreach).

151.35(1) Contracting process.

a. The chief juvenile court officer for each judicial district shall develop the process for contracting for graduated sanction services. The process shall include:

(1) The rationale for selecting which services to provide;

(2) The provider selection process, including bid solicitations;

(3) Vendor evaluation criteria; and

(4) A procedure for resolving appeals.

b. The chief juvenile court officer shall develop selection criteria for choosing providers to ensure that resources are targeted effectively within the district. Multiple providers may be selected to address the needs within the district.

c. The chief juvenile court officer shall develop a contract with each provider selected through the process.

(1) The chief juvenile court officer or designee shall prepare Form 470-0022, Pre-Contract Questionnaire, for each new contract.

(2) The chief juvenile court officer, the provider, and the department shall sign the contract.

(3) The chief juvenile court officer is responsible for distributing a copy of the signed contract or amendment to the provider.

d. The chief juvenile court officer shall have the authority to resolve provider appeals in accordance with procedures approved by the department.

e. Contract amendments shall be prepared whenever there is a change in the amount of contracted dollars, contract duration, program description, or any other terms of the contract.

(1) Any party to the contract may request an amendment to the contract. The provider may request a contract amendment through the chief juvenile court officer.

(2) The chief juvenile court officer, the provider, and the department shall sign a contract amendment.

(3) The chief juvenile court officer or designee shall prepare Form 470-0022, Pre-Contract Questionnaire, for each contract amendment.

f. The chief juvenile court officer may submit a claim for payment of juvenile court services' costs of printing, copying, distributing and advertising associated with the contracting process. The claim shall be submitted on Form GAX, General Accounting Expenditure. The cost shall be charged first to the administrative set-aside funds and second to the program fund, as funds are available.

151.35(2) Contract content. Contracts for purchasing graduated sanction services shall be developed using contract forms approved as to legal form by the assistant attorney general assigned to work with juvenile court services contracts. Contracts with providers shall incorporate all applicable requirements in Iowa Code section 8.47 as well as the administrative and program requirements of this chapter.

a. The contract shall:

(1) Note the unit cost or payment rate;

(2) State the interval for which the cost will be billed;

(3) Describe the process the provider shall follow to complete and submit claims for payment; and

(4) Specify any approved charges for curriculum materials or other expenses that are involved in the delivery of services but not included in the unit cost or payment rate.

b. Contracts with providers of life skills, supervised community treatment, or tracking, monitoring, and outreach services shall establish and define the unit of service and the cost of the unit of service to be provided and billed per child. The contract shall specify the payment amount for the unit of service and may specify a maximum number of units but shall not ensure a provider reimbursement for a specific rate of utilization. Payment shall be made only for units of service provided to and billed for specific children.

c. Contracts with providers of life skills, supervised community treatment, or tracking, monitoring, and outreach services may establish individual or group rates. The contract shall establish a group rate when the service is provided

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to more than one child at a time. A minimum and a maximum number of participants shall be established when a group rate is set.

(1) The group rate may be a set amount to be charged for each child who attends the group. The provider will receive payment for each child served.

(2) The group rate may be a set amount to be charged for the group. The provider will receive the same payment amount each time the provider serves the group. The provider must identify all attendees of each group for which payment is claimed.

d. Contracts with providers of supervised community treatment, or tracking, monitoring, and outreach may establish per diem rates when the intensity of service provision per child is variable but the total cost of the provision of the service is known. The range of coverage of the intensity of service provision shall be described in the contract.

ARC 4438B**HUMAN SERVICES
DEPARTMENT[441]****Amended Notice of Intended Action**

Pursuant to the authority of Iowa Code section 235B.6, the Department of Human Services proposes to amend Chapter 176, "Dependent Adult Abuse," Iowa Administrative Code.

The amendment published under Notice of Intended Action in the Iowa Administrative Bulletin on July 6, 2005, as **ARC 4326B** and simultaneously Adopted and Filed Emergency as **ARC 4311B** adds a court or administrative agency making a determination regarding an unemployment compensation claim for a person who is the subject of a dependent adult abuse report to the list of entities with access to dependent adult abuse information, as directed by 2005 Iowa Acts, Senate File 335. A court's or administrative agency's need for access occurs when the person seeking unemployment compensation was fired because of a founded adult abuse report.

2005 Iowa Acts, House File 825, also amends the statute regarding access to dependent adult abuse information to include employees of the state office or a local office of substitute decision maker, as designated by the Iowa Department of Elder Affairs, who are responsible for decisions about a subject of an abuse report who lacks the capacity to consent. Therefore, the Notice of Intended Action published as **ARC 4326B** is amended to add this change to the Department's rules as well.

These amendments do not provide for waivers in specified situations because access to dependent adult abuse information is set by statute, which the Department has no authority to waive.

Any interested person may make written comments on the proposed amendments on or before September 7, 2005. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 235B.6 as amended by 2005 Iowa Acts, Senate File 335, and 2005 Iowa Acts, House File 825, section 143.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)

281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule **176.10(3)**, paragraph "d," by adopting **new** subparagraph (5) as follows:

(5) A court or administrative agency making a determination regarding an unemployment compensation claim for a person who is a subject of a dependent adult abuse report.

ITEM 2. Amend subrule **176.10(3)**, paragraph "e," by adopting **new** subparagraph (11) as follows:

(11) An employee of the state office or a local office of substitute decision maker who is the court-appointed guardian or conservator or person responsible for performing or obtaining services for a dependent adult who is named in a report as a victim of abuse and lacks the capacity to consent.

ARC 4444B**PUBLIC SAFETY
DEPARTMENT[661]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 100.35, the Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 5, "Fire Marshal," Iowa Administrative Code.

Authority for establishment and enforcement of fire safety requirements in Iowa is shared by the State Fire Marshal and cities and counties. Rules of the State Fire Marshal apply statewide and may be supplemented by a local fire safety ordinance. With certain limited exceptions, enforcement of Fire Marshal rules is carried out by local jurisdictions when they have enforcement capabilities. Rules of the Fire Marshal are generally based on provisions contained in standards and codes published by the National Fire Protection Association, and these publications often are adopted in local fire safety ordinances. However, a number of local Iowa jurisdictions have adopted fire safety ordinances which adopt the International Fire Code, published by the International Code Council as part of the "family" of international codes, which includes the International Building Code.

The Fire Marshal has determined that enforcement of both rules of the State Fire Marshal and the International Fire Code, for most occupancies, is potentially confusing and needlessly duplicative and that compliance with the International Fire Code would generally provide a level of fire safety equivalent to compliance with the rules of the Fire Marshal. Therefore, these proposed rules contain a provision which deems an occupancy to be in compliance with the rules of the Fire Marshal if the occupancy is in a jurisdiction which (1) has adopted a local fire safety ordinance which requires compliance with the provisions of the International Fire Code and (2) has a local fire enforcement program. This provision is not, however, proposed to apply to health care occupancies because a condition of certification for a health care occupancy to receive reimbursements from the Medicaid and Medicare programs is compliance with rules of the Fire Marshal.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Iowa Code sections 100.1 and 100.35 provide the State Fire Marshal with broad authority to establish minimum fire safety standards for a variety of occupancies, specifically including churches, theaters, amphitheaters, lodge halls, club rooms, public meeting places, and places of amusement, and generally for "all other buildings or structures in which persons congregate from time to time, whether publicly or privately owned." While various provisions of the rules of the Fire Marshal would apply to all occupancies, including those listed here, there have not been provisions which apply specifically to assembly occupancies. This omission will be corrected by the adoption of the rules proposed herein.

A public hearing on these proposed rules will be held on September 9, 2005, at 10 a.m. in the Fire Marshal Division Conference Room, 401 S.W. 7th Street, Suite N, Des Moines, Iowa 50309. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail, by telephone at (515)281-5524, or by electronic mail to admrule@dps.state.ia.us at least one day prior to the public hearing.

Any written comments or information regarding these proposed rules may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on September 9, 2005, or may be submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office by 4:30 p.m. on September 9, 2005.

These rules may be Adopted and Filed Emergency After Notice, after the public notice and participation provisions of Iowa Code chapter 17A have been met, in order that the rules would take effect at the earliest possible time, since there are currently no Fire Marshal rules specifically for assembly occupancies.

These rules are intended to implement Iowa Code sections 100.1 and 100.35.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend 661—Chapter 5 by adopting the following **new** rules:

661—5.16(100) Alternate requirements. With the exception of a health care facility subject to the requirements of 661 Iowa Administrative Code Chapter 205, a building or facility shall be deemed to be in compliance with the requirements established in this chapter if all of the following conditions are met:

1. The building or facility is in a local jurisdiction which has adopted a local fire ordinance which adopts by reference the International Fire Code, 2000 edition or 2003 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041.

2. The local fire ordinance is enforced through a process of review and approval of construction plans for compliance with the local fire ordinance and a process of regular inspections for compliance with the local fire ordinance.

3. The building or facility is subject to regular fire safety inspections.

4. The local jurisdiction has certified during its most recent inspection, including any follow-up inspections, that the building or facility is in compliance with the local fire ordinance.

661—5.301(100) Assembly occupancies.

5.301(1) Definitions. The following definitions apply to rule 661—5.301(100):

"Assembly occupancy" means a building or facility used for a gathering of 50 or more persons for deliberation, worship, entertainment, eating, drinking, amusement, awaiting transportation, or similar uses; or used as a special amusement building, regardless of occupant load.

"Existing" means a building or facility which has been in continuous operation under its current classification of occupancy since [day before effective date of rule will be inserted when rule is adopted].

"New" means a building or facility which began continuous operation under its current classification of occupancy on or after [effective date of rule will be inserted here when rule is adopted].

"NFPA" means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form "NFPA xx," where "xx" is a number, refer to the NFPA standard or pamphlet of the corresponding number.

"Special amusement building" means a building that is temporary, permanent, or mobile that contains a device or system that conveys passengers or provides a walkway along, around, or over a course in any direction as a form of amusement arranged so that the egress path is not readily apparent due to visual or audio distractions or an intentionally confounded egress path; or is not readily available due to the mode of conveyance through the building or structure.

5.301(2) Existing assembly occupancies. The requirements contained in NFPA 101, Life Safety Code, 2003 edition, Chapter 13, are adopted as the minimum fire safety requirements for existing assembly occupancies.

EXCEPTION: If an existing assembly occupancy is in a local jurisdiction which has adopted a local fire ordinance which requires compliance with the provisions of the International Fire Code, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, 2000 edition or 2003 edition, and if the local jurisdiction enforces the local ordinance through reviews of construction plans and regular fire inspections, the existing assembly occupancy shall be deemed to be in compliance with the requirements of this rule if the local jurisdiction certifies that the occupancy is in compliance with the provisions of the local fire ordinance.

5.301(3) New assembly occupancies. The requirements contained in NFPA 101, Life Safety Code, 2003 edition, Chapter 12, are adopted as the minimum fire safety requirements for new assembly occupancies.

EXCEPTION: If a new assembly occupancy is in a local jurisdiction which has adopted a local fire ordinance which requires compliance with the provisions of the International Fire Code, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, 2000 edition or 2003 edition, and if the local jurisdiction enforces the local ordinance through reviews of construction plans and regular fire inspections, the existing assembly occupancy shall be deemed to be in compliance with the requirements of this rule if the local jurisdiction certifies that the occupancy is in compliance with the provisions of the local fire ordinance.

ARC 4445B**PUBLIC SAFETY
DEPARTMENT[661]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 101.1, the Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 51, “Flammable and Combustible Liquids,” Iowa Administrative Code.

Iowa Code chapter 101 charges the State Fire Marshal with establishing standards for the transportation, storage, handling, and use of flammable liquids, liquefied petroleum gases, and liquefied natural gases. Rules covering all of these subjects are contained in 661—Chapter 51 of the Iowa Administrative Code. Subrule 51.202(1) establishes the requirements for dispensing of motor vehicle fuel, and does so through adoption by reference of a standard published by the National Fire Protection Association, NFPA 30A, “Automotive and Marine Service Station Code,” 2000 edition. The subrule currently amends the standard as published by the National Fire Protection Association by establishing requirements for clearances (distances from tanks) not included in the published standard.

The published standard generally requires that equipment used to dispense motor vehicle fuel be rated (“listed”) by an independent testing laboratory as compatible with the fuel being dispensed. However, ethanol blend fuels with higher concentrations of ethanol than traditionally included (10 percent) in the blend have not been on the retail market long enough for retail dispensing equipment listed as compatible with blends with higher concentrations of ethanol to be generally available.

An ethanol blend with 85 percent ethanol is available for retail distribution in Iowa. To facilitate the retail sale of higher concentration ethanol blends, the amendment proposed here would allow the dispensing of these higher concentration blends using equipment listed for use in dispensing gasoline or the traditional ethanol blend (90 percent gasoline, 10 percent ethanol), until July 1, 2007, provided that (1) the manufacturer certifies that the equipment is compatible with the higher concentration ethanol blend and (2) the manufacturer has initiated the process of seeking listing of the dispensing equipment by an independent testing laboratory.

A public hearing on this proposed amendment will be held on September 9, 2005, at 9:30 a.m. in the Fire Marshal Division Conference Room, 401 S.W. 7th Street, Suite N, Des Moines, Iowa 50309. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail, by telephone at (515)281-5524, or by electronic mail to admrule@dps.state.ia.us at least one day prior to the public hearing.

Any written comments or information regarding this proposed amendment may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on September 9, 2005. Persons who wish

to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office by 4:30 p.m. on September 9, 2005.

In order to facilitate the retail dispensing of ethanol blend fuels with higher concentrations of ethanol than the traditional 10 percent in as timely a manner as possible, the Department and the Fire Marshal intend to adopt this amendment through the Adopted and Filed Emergency After Notice procedure after the period for public comment has expired.

This amendment is intended to implement Iowa Code section 101.5.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend subrule 51.202(1) as follows:

51.202(1) Except as allowed by rule 661—51.203(101), NFPA 30A, “Automotive and Marine Service Station Code,” 2000 edition, is adopted by reference as the rules governing dispensing motor vehicle fuel into the fuel tanks of motor-driven vehicles, with the following amendments:

Delete subsection 4.3.2.7 and insert in lieu thereof the following:

4.3.2.7 Each tank having a capacity of not more than 6,000 gallons for motor vehicle fuel dispensing systems that is located at a commercial, industrial, governmental, or manufacturing establishment, and that is intended for fueling vehicles used in connection with the establishment shall be located at least:

(a) 40 feet from the nearest important building on the same property;

(b) 40 feet away from any property that is or may be built upon, including the opposite side of a public way;

(c) 100 feet away from any residence or place of assembly.
EXCEPTION: All distances may be reduced by 50 percent for tanks installed in vaults that comply with subsection 4.3.3 or are UL-listed aboveground double-walled tanks that have a two-hour fire-resistive rating and that comply with subsection 4.3.4 or 4.3.5.

Add the following new section:

6.9 *Dispensing of E-blend.*

6.9.1 *Definitions.*

“E-10” means a blend of petroleum and ethanol including no more than 10 percent ethanol intended for use as a motor vehicle fuel.

“E-blend” means a blend of petroleum and ethanol including more than 10 percent ethanol intended for use as a motor vehicle fuel.

6.9.2 *Requirements for equipment dispensing E-blend prior to July 1, 2007.*

Prior to July 1, 2007, E-blend may be dispensed from equipment listed for use with gasoline or E-10, provided that the equipment is fully in compliance with all requirements for use in dispensing gasoline or E-10 if the manufacturer certifies:

(1) That the equipment is, in the opinion of the manufacturer, not incompatible with E-blend, and

(2) The manufacturer has applied to an independent testing laboratory for listing of the equipment for use in dispensing E-blend.

6.9.3 *Requirements for equipment dispensing E-blend on or after July 1, 2007.*

PUBLIC SAFETY DEPARTMENT[661](cont'd)

On or after July 1, 2007, any equipment used to dispense E-blend shall be listed for dispensing E-blend.

NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for August is 6.00%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants Maximum 6.0%

74A.4 Special Assessments Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be

paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective August 9, 2005, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum 1.40%
32-89 days	Minimum 1.95%
90-179 days	Minimum 2.20%
180-364 days	Minimum 2.55%
One year to 397 days	Minimum 2.85%
More than 397 days	Minimum 4.05%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 4442B**EDUCATIONAL EXAMINERS
BOARD[282]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Chapter 17, "Renewal of Licenses," Chapter 19, "Coaching Authorization," Chapter 20, "Evaluator Endorsement and License," Chapter 21, "Behind-the-Wheel Driving Instructor Authorization," and Chapter 22, "Paraeducator Certificates," Iowa Administrative Code.

The amendments increase fees for licenses and authorizations. Most license fees will be increased \$25 for the five-year period (from \$60 to \$85). The fee for a duplicate license will be increased from \$10 to \$15. The fee for a Class E license will be increased from \$125 to \$150 in an effort to have individuals complete the conditions for the license on time. The fee for a teacher intern license will be increased from \$100 to \$125. The fee for substitute authorization will be increased from \$25 to \$40. The fee for coaching authorization will be increased from \$50 to \$85. The fee for behind-the-wheel instructor authorization and renewal will be increased from \$25 to \$40. The fee for a paraeducator certificate will be increased from \$25 to \$40.

In compliance with Iowa Code section 17A.4(2), the Board finds that notice and public participation are unnecessary because these amendments are simultaneously being proposed under Notice of Intended Action to allow for public comment.

The Board also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and these amendments should be made effective upon filing with the Administrative Rules Coordinator on July 29, 2005, as they will meet Iowa Code section 272.10, unnumbered paragraph 1: "It is the intent of the general assembly that licensing fees established by the board of educational examiners be sufficient to finance the activities of the board under this chapter."

The Board of Educational Examiners adopted these amendments on July 29, 2005.

These amendments are also published herein under Notice of Intended Action as **ARC 4440B** to allow public comment.

These amendments are intended to implement Iowa Code chapter 272.

These amendments became effective on July 29, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend subrule 14.121(1) as follows:

14.121(1) Issuance and renewal of licenses and statements of professional recognition.

a. Fees for the issuance of licenses ~~effective September 1, 2004:~~

(1) The fee for the issuance of the initial license shall be \$50 85.

(2) The fee for the issuance of the standard license shall be \$60 85.

(3) The fee for the issuance of the master educator license shall be \$60 85.

(4) The fee for the issuance of the substitute license shall be \$60 85.

(5) The fee for the issuance of the provisional occupational (career and technical) secondary license shall be \$60 85.

(6) The fee for the issuance of the occupational (career and technical) secondary license shall be \$60 85.

(7) The fee for the issuance of the statement of professional recognition shall be \$60 85.

(8) The fee for the issuance of the professional administrator license shall be \$60 85.

(9) The fee for the issuance of the evaluator license shall be \$60 85.

(10) The fee for the issuance of the administrator, counselor, or teacher exchange license shall be \$60 85.

(11) The fee for the issuance of the Class A, B, C, or D license shall be \$60 85.

(12) The fee for the issuance of the Class E license shall be \$125 150.

b. Fees for the renewal of licenses ~~effective September 1, 2004:~~

(1) The fee for the renewal of the initial license shall be \$50 85.

(2) The fee for the renewal of the standard license shall be \$60 85.

(3) The fee for the renewal of the master educator license shall be \$60 85.

(4) The fee for the renewal of the substitute license shall be \$60 85.

(5) The fee for the renewal of the occupational (career and technical) secondary license shall be \$60 85.

(6) The fee for the renewal of the professional administrator license shall be \$60 85.

(7) The fee for the renewal of the evaluator license shall be \$60 85.

(8) The fee for the renewal of the AEA administrator license shall be \$60 85.

ITEM 2. Amend subrule 14.121(3) as follows:

14.121(3) Duplicate licenses, authorizations, and statements of professional recognition. The fee for the issuance of a duplicate practitioner's license, evaluator license, statement of professional recognition or coaching authorization shall be \$40 15.

ITEM 3. Amend subrule 14.121(5) as follows:

14.121(5) One-year Class E license. The fee for the issuance of a one-year Class E license based on an expired Class A, Class B, Class C, Class D or two-year exchange license shall be \$125 150.

ITEM 4. Amend subrule 14.129(2) as follows:

14.129(2) The term of the teacher intern license will be one year from the date of issuance. The fee for the teacher intern license is \$400 125. This license is nonrenewable.

ITEM 5. Amend subrule 14.143(2) as follows:

14.143(2) The fee for the substitute authorization is \$25 40 for one year.

ITEM 6. Amend subrule 17.7(3) as follows:

17.7(3) An applicant renewing an administrator license must submit documentation of completion of the evaluator training required in Iowa Code section 284.10. ~~An applicant may apply for the five-year administrator license upon completion of this training.~~

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

The fee for the five-year administrator license is \$60. If the term of the renewed administrator license extends beyond the term of the applicant's current administrator license, the fee for the renewed administrator license will be prorated to equal \$12 per year of extension.

a. The following are examples of the prorated fees for this extension.

(1) If the practitioner's current license is extended by five years, the cost is \$60.

(2) If the practitioner's current license is extended by four years, the cost is \$48.

(3) If the practitioner's current license is extended by three years, the cost is \$36.

(4) If the practitioner's current license is extended by two years, the cost is \$24.

(5) If the practitioner's current license is extended by one year, the cost is \$12.

(6) If the practitioner's current license is extended by less than one year, the cost is \$12.

b. A waiver of the evaluator training may apply under the following conditions with appropriate documentation of any of the following:

(1) a. The person is engaged in active duty in the military service of this state or of the United States.

(2) b. The application of the evaluator training would impose an undue hardship on the person for whom the waiver is requested.

(3) c. The person is an administrator in an accredited non-public school.

(4) d. The person is practicing in a licensed profession outside this state.

(5) e. The person is practicing in a nonadministrative or nonevaluative position.

ITEM 7. Rescind and reserve subrule **17.7(4)**.

ITEM 8. Amend rule 282—19.2(272) as follows:

282—19.2(272) Validity. All fees are nonrefundable. The coaching authorization shall be valid for five years, and it shall expire five years from the date of issuance. The fee for the issuance of the coaching authorization shall be \$50 85.

ITEM 9. Amend rule 282—19.5(272), introductory paragraph, as follows:

282—19.5(272) Renewal. All fees are nonrefundable. The authorization may be renewed upon application, \$50 85 renewal fee, and verification of successful completion of:

ITEM 10. Amend rule 282—20.55(272) as follows:

282—20.55(272) Evaluator license. Applicants may apply for the five-year evaluator license upon completion of the evaluator training required in Iowa Code section 284.10.

The fee for the evaluator license is \$50 85. If the term of the license extends beyond the term of the applicant's valid administrative or evaluator license, the fee for the evaluator license will be prorated to equal \$10 per year of extension. The following provides examples of the prorated fees for this extension:

If the practitioner's current license is extended by five years, the fee is \$50.

If the practitioner's current license is extended by four years, the fee is \$40.

If the practitioner's current license is extended by three years, the fee is \$30.

If the practitioner's current license is extended by two years, the fee is \$20.

If the practitioner's current license is extended by one year, the fee is \$10.

If the practitioner's current license is extended by less than one year, the fee is \$10.

ITEM 11. Rescind and reserve rule **282—20.60(272)**.

ITEM 12. Amend rule 282—21.2(272,321) as follows:

282—21.2(272,321) Validity. All fees are nonrefundable. The behind-the-wheel driving instructor authorization shall be valid for one calendar year, and it shall expire one year after issue date. Effective September 1, 2004, the fee for the issuance of the behind-the-wheel driving instructor authorization shall be \$25 40.

ITEM 13. Amend rule 282—21.5(272,321), introductory paragraph, as follows:

282—21.5(272,321) Renewal. All fees are nonrefundable. Effective September 1, 2004, the behind-the-wheel driving instructor authorization may be renewed upon application, payment of the \$25 40 renewal fee and verification of successful completion of:

ITEM 14. Amend rule 282—22.5(272) as follows:

282—22.5(272) Certificate application fee. All fees are nonrefundable.

22.5(1) Issuance of certificates. The fee for the issuance of the paraeducator certificate shall be \$25 40.

22.5(2) Adding areas of concentration. The fee for the addition of each area of concentration to a paraeducator certificate, following the issuance of the initial paraeducator certificate and any area(s) of concentration, shall be \$40 25.

[Filed Emergency 7/29/05, effective 7/29/05]

[Published 8/17/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/17/05.

ARC 4432B

WORKERS' COMPENSATION DIVISION[876]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 86.8, the Workers' Compensation Commissioner hereby amends Chapter 8, "Substantive and Interpretive Rules," Iowa Administrative Code.

This amendment provides for the mileage rate for transportation expense in workers' compensation claims.

In compliance with Iowa Code section 17A.4(2), the Workers' Compensation Commissioner finds that notice and public participation are unnecessary and contrary to the public interest. The substance of this amendment has been provided to interest groups and is not opposed. The actual cost of travel now far exceeds the current rule's allowance of 29 cents per mile. The United States government has placed the cost of operating a vehicle at 40.5 cents per mile as evidenced by its adoption of the standard mileage rate as shown in Section 1.2745 of Internal Revenue Service regulations. The reasonableness of the standard mileage rate is not controversial. The standard mileage rate is widely accepted, relied upon and used by individuals and businesses. Those individuals affected by the amendment are typically disabled from

WORKERS' COMPENSATION DIVISION[876](cont'd)

employment and experiencing reduced income. Continuing the current unreasonable reimbursement rate creates a peril to the welfare of the affected individuals. This amendment is intended to be short-term until a more permanent change can be adopted.

The Division also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment should be made effective August 1, 2005, as it confers a benefit upon the public to ensure speedy and uniform compliance with the Division's legislative mandate.

The Division has determined that this amendment will not necessitate additional annual expenditures exceeding \$100,000 or combined expenditures exceeding \$500,000 within five years by all affected persons, including the agency. Therefore, no fiscal impact statement accompanies this rule making.

The Division has determined that the amendment will not necessitate additional annual expenditures exceeding \$100,000, or \$500,000 within five years, by political subdivisions or agencies which contract with political subdivisions. Therefore, no fiscal impact statement accompanies this rule making.

The amendment does not include a waiver provision because rule 876—12.4(17A) provides the specified situations for waiver of Workers' Compensation Division rules.

This amendment is intended to implement Iowa Code sections 85.27(1) and 85.39.

This amendment became effective on August 1, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Amend rule **876—8.1(85)**, numbered paragraph “**2,**” as follows:

2. All mileage incident to the use of a private auto. The per-mile rate for use of a private auto *on or after August 1, 2005*, shall be 29 40.5 cents per mile.

[Filed Emergency 7/27/05, effective 8/1/05]

[Published 8/17/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/17/05.

ARC 4435B

ADMINISTRATIVE SERVICES
DEPARTMENT[11]

Adopted and Filed

Pursuant to the authority of Iowa Code section 8A.104, the Department of Administrative Services hereby amends Chapter 103, "State Employee Driving Guidelines," Iowa Administrative Code.

The amendment to rule 103.2(8A) in Item 1 excludes only law enforcement officers employed by the Department of Public Safety from the definition of "state driver." The Department of Public Safety has a process established for investigating the accidents of its own law enforcement officers and requiring appropriate corrective action. Other law enforcement officers, such as those employed by the Department of Corrections and the Department of Natural Resources, are included in the definition of "state driver." The Department of Administrative Services' risk manager investigates accidents involving state drivers. This investigation includes consideration of any available law enforcement reports. In addition, a law enforcement officer may request that the officer's completion of a law enforcement-specific defensive driving class substitute for completion of the defensive driving class required every three years for all state drivers.

Item 2 amends rule 103.9(8A) so that drivers of authorized emergency vehicles may be exempted from Iowa motor vehicle laws pursuant to Iowa Code section 321.231. This amendment addresses issues raised by law enforcement officers who continue to be included in the definition of "state driver."

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 22, 2005, as **ARC 4275B**. No public comment was received on these amendments. These amendments are identical to those published under Notice of Intended Action.

These amendments were adopted by the Department of Administrative Services on July 27, 2005.

These amendments shall become effective on September 21, 2005.

These amendments are intended to implement Iowa Code sections 8A.104, 80.9 and 801.4.

The following amendments are adopted.

ITEM 1. Amend rule **11—103.2(8A)**, definition of "state driver" as follows:

"State driver" means any person who drives a vehicle to conduct official state business other than a law enforcement officer *employed by the department of public safety*.

ITEM 2. Amend rule 11—103.9(8A) as follows:

11—103.9(8A) Required adherence to motor vehicle laws. Each state driver is required to abide by all applicable motor vehicle laws of the state of Iowa or any other state in which the state driver may be traveling *with the exception of drivers covered by Iowa Code section 321.231*.

[Filed 7/28/05, effective 9/21/05]

[Published 8/17/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/17/05.

ARC 4441B

EDUCATIONAL EXAMINERS
BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

The purpose of the amendment is to be consistent with subrule 14.121(6), which provides that a late fee be assessed to any applicant as a penalty for not renewing the license in a timely manner. At the current time, the Board does not have a penalty for a licensed teacher who does not hold a valid endorsement in the area of service for which the person is employed. The Board is proposing a new subrule to address this issue.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 25, 2005, as **ARC 4197B**. A public hearing on the amendment was held on June 14, 2005. No one attended the public hearing, and no written comments were received. The implementation date was changed to September 21, 2005, to coincide with the effective date of the amendment.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective September 21, 2005.

The following amendment is adopted.

Adopt **new** subrule 14.121(7) as follows:

14.121(7) Penalty for failure to have appropriate licensure.

a. An additional fee of \$25 per calendar month, not to exceed \$150, shall be imposed if the practitioner holds a valid Iowa license, but does not hold an endorsement for the type of service for which the practitioner is employed.

b. An additional fee of \$100 per calendar month, not to exceed \$500, shall be imposed if the practitioner does not hold a valid Iowa license.

The fee will begin to be assessed on the first day of the school year for which the practitioner is employed until the practitioner submits a completed application packet for the appropriate license. The penalty will enforce Iowa Code section 272.7. Waiver of the fee will be granted only upon a showing of extraordinary circumstances rendering imposition of the fee unreasonable.

[Filed 7/29/05, effective 9/21/05]

[Published 8/17/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/17/05.

ARC 4433B

ENVIRONMENTAL PROTECTION
COMMISSION [567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby adopts an

ENVIRONMENTAL PROTECTION COMMISSION [567](cont'd)

amendment to Chapter 20, "Scope of Title—Definitions—Forms—Rules of Practice," Iowa Administrative Code.

This amendment to rule 567—20.2(455B) adds new definitions for "biodiesel fuel," "diesel fuel," and "number 1 fuel oil" and "number 2 fuel oil."

Biodiesel fuel is a renewable, biodegradable liquid fuel derived from agricultural plant oils or animal fat. The most common type of biodiesel fuel used in Iowa is made from soybean oil. Number 1 and number 2 fuel oils are two distillate oils that are commonly used in internal combustion engines, and are sometimes used in boilers and combustion turbines. Diesel fuel is a low sulfur fuel oil that is also frequently used in internal combustion engines. Fuel blends of up to 2.0 percent biodiesel, by volume, are widely available and appear to be readily usable in most internal combustion engines.

Based on the available data, blends of diesel fuel, number 1 or number 2 fuel oil, with up to 2.0 percent biodiesel fuel, by volume, are not expected to result in measurable increases in air pollution. The Department therefore defines biodiesel blends at these specifications to be equivalent to unblended diesel fuel, number 1 fuel oil and number 2 fuel oil. Additionally, the Department considers construction or operating permits with restrictions for diesel fuel, number 1 fuel oil or number 2 fuel oil to include this biodiesel/fuel oil blend.

This modification will provide a benefit to facilities that currently combust diesel fuel, number 1 fuel oil or number 2 fuel oil and wish to consider using biodiesel/fuel oil blends because the facilities will no longer be required to apply for modifications of construction permits to make this fuel change. If facilities wish to burn biodiesel/diesel or biodiesel/fuel oil blends of greater than 2.0 percent biodiesel, by volume, emissions calculations and permits will need to be modified accordingly.

The Iowa Association of Municipal Utilities (IAMU) approached the Department with information that some municipal utilities were interested in burning biodiesel in their internal combustion engines. Because emissions information was limited, the Department worked with IAMU and other interested parties during IAMU's air emissions testing of biodiesel/diesel blends in two diesel generators at a municipal utility.

The testing was conducted at Sumner Municipal Light. The two air pollutants of concern were particulate matter (PM) and nitrogen oxide (NO_x). The testing results showed that particulate emissions decreased with a 10 percent biodiesel blend (B10) in both engines tested. NO_x emissions decreased with a 10 percent biodiesel blend in the newer engine tested, but increased in the older engine tested.

Using B10 at Sumner resulted in a 10 percent increase in NO_x emissions from the older engine. The newer engine showed a 13 percent NO_x decrease. There is not sufficient information, however, to determine if engine age, or some other unknown factor, accounted for the disparity in NO_x emissions.

It is known that new engines use electronically controlled fuel injection and intake air control, allowing for optimum fuel timing and air induction at all times, thereby reducing combustion temperatures, and thus NO_x production. While older engines use mechanical injection and fixed air induction, improved results should be achieved with older engines by adjusting the mechanical timing and optimizing fixed air induction.

Although this technology could allow for some newer engines or retrofitted older engines to achieve reduced NO_x production, there is not enough emissions data currently

available to allow the Department to designate which engine years and models would qualify as "new" engines, or which engine years and models would be considered to be "old" engines.

The Department also reviewed an analysis of biodiesel emissions from mobile, heavy duty engines conducted by the U.S. Environmental Protection Agency (EPA). The EPA study showed that NO_x emissions increased with increased biodiesel concentration, although to a lesser magnitude than in the results seen in the Sumner test. For example, when burning B10 in the mobile test engines, NO_x emissions increased an average of 1 percent. EPA's analysis did not find any correlation between engine model year and the emissions impacts from biodiesel.

It should be noted that the EPA study and the test results at Sumner cannot be directly compared. The mobile engines tested in the EPA study are much smaller than the stationary engines used at Sumner and other municipal utilities and have different equipment and operating parameters. Additionally, the emission testing methods used in the EPA study are not the EPA-approved testing methods for stationary sources of air pollutants.

Based on the limited testing data at Sumner, along with data from the EPA analysis, it is reasonable to assume that NO_x emissions from stationary, internal combustion engines are linearly related to biodiesel concentration. That is, an increase in biodiesel concentration may cause a similar increase in NO_x emissions. Therefore, the Department cannot consider the NO_x emissions from a stationary, internal combustion engine from combustion of biodiesel blends greater than 2.0 percent biodiesel, by volume, to be equivalent to burning unblended diesel fuel, number 1 fuel oil or number 2 fuel oil.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 11, 2005, as **ARC 4159B**. A public hearing was held on June 14, 2005. No comments were received at the public hearing. One written comment was received prior to the close of the public comment period. The public comment period closed on June 20, 2005.

The submitted comment and the Department's response to the comment are summarized in a responsiveness summary available from the Department. In response to public comment, this amendment includes one minor administrative change from the amendment published under Notice of Intended Action. This change is noted below.

The National Biodiesel Board (NBB) submitted written comments in response to the Notice of Intended Action, urging the Department to reconsider the EPA mobile source testing data, as well as other emissions data, to potentially increase the proposed volume of biodiesel allowed in a blend without requiring a construction permit modification. As noted above, the EPA study of small mobile engines cannot be directly extrapolated to the large stationary engines used at Sumner Municipal Utilities and other facilities. NBB has not provided any additional, acceptable emissions testing data on these types of engines. The Department is also not aware of any additional emissions testing data. The testing data from Sumner is currently the Department's only acceptable emissions test data on large stationary internal combustion engines.

With limited data, the Department must make a conservative emissions estimate to ensure that air quality is not adversely impacted. Therefore, the Department has proceeded with the amendment allowing up to a 2.0 percent biodiesel blend to be considered equivalent to diesel fuel and number 1 and number 2 fuel oils for air permitting and air emissions

ENVIRONMENTAL PROTECTION COMMISSION [567](cont'd)

purposes. The Department is receptive to proposing an amendment to allow a higher percentage biodiesel blend at such time as the higher percentage can be supported by emissions testing data. The Department will continue to work closely with facilities in calculating their emissions and expeditiously obtaining any needed permit amendments.

The NBB also requested that the definition of "biodiesel fuel" be clarified to change the term "Act" to "Clean Air Act." The Department has modified this term to be consistent with references to the Clean Air Act elsewhere in the air quality rules.

This amendment is intended to implement Iowa Code section 455B.133.

This amendment shall become effective September 21, 2005.

The following amendment is adopted.

Amend rule **567—20.2(455B)** by adopting the following **new** definitions in alphabetical order:

"Biodiesel fuel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from agricultural plant oils or animal fat such as, but not limited to, soybean oil. For purposes of this definition, "biodiesel fuel" must also meet the specifications of American Society for Testing and Material Specifications (ASTM) D 6751-02, "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels," and be registered with the U.S. Environmental Protection Agency as a fuel and a fuel additive under Section 211(b) of the Clean Air Act, 42 U.S.C. Sections 7401, et seq. as amended through November 15, 1990.

"Diesel fuel" means a low sulfur fuel oil that complies with the specifications for grade 1-D or 2-D, as defined by the American Society of Testing and Materials (ASTM) D 975-02, "Standard Specification for Diesel Fuel Oils," grade 1-GT or 2-GT, as defined by ASTM D 2880-00, "Standard Specification for Gas Turbine Fuel Oils," or grade 1 or 2, as defined by ASTM D 396-02, "Standard Specification for Fuel Oils."

1. For purposes of the air quality rules contained in Title II, and unless otherwise specified, diesel fuel may contain a blend of up to 2.0 percent biodiesel fuel, by volume, as "biodiesel fuel" is defined in this rule.

2. The department shall consider air pollutant emissions calculations for the biodiesel fuel blends specified in numbered paragraph "1" to be equivalent to the air pollutant emissions calculations for unblended diesel fuel.

3. Construction permits or operating permits issued under 567—Chapter 22 which restrict equipment fuel use to diesel fuel shall be considered by the department to include the biodiesel fuel blends specified in numbered paragraph "1," unless otherwise specified in 567—Chapter 22 or in a permit issued under 567—Chapter 22.

"Number 1 fuel oil" and "number 2 fuel oil," also known as "distillate oil," mean fuel oil that complies with the specifications for fuel oil number 1 or fuel oil number 2, as defined by the American Society of Testing and Materials (ASTM) D 396-02, "Standard Specification for Fuel Oils."

1. For purposes of the air quality rules contained in Title II, and unless otherwise specified, number 1 fuel oil or number 2 fuel oil may contain a blend of up to 2.0 percent biodiesel fuel, by volume, as "biodiesel fuel" is defined in this rule.

2. The department shall consider air pollutant emissions calculations for the biodiesel fuel blends specified in numbered paragraph "1" to be equivalent to the air pollutant emissions calculations for unblended number 1 fuel oil or unblended number 2 fuel oil.

3. Construction permits or operating permits issued under 567—Chapter 22 which restrict equipment fuel use to number 1 fuel oil or number 2 fuel oil shall be considered by the department to include the biodiesel fuel blends specified in numbered paragraph "1," unless otherwise specified in 567—Chapter 22 or in a permit issued under 567—Chapter 22.

[Filed 7/28/05, effective 9/21/05]

[Published 8/17/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/17/05.

ARC 4443B**LABOR SERVICES DIVISION[875]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 89.14(5) and 89.14(7), the Boiler and Pressure Vessel Board hereby amends Chapter 200, "General," Iowa Administrative Code.

These amendments are intended to update fees charged for enforcement of Iowa Code chapter 89. These amendments reflect economic changes since this rule was last amended and provide adequate funding for enforcement of Iowa Code chapter 89.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 8, 2005, as **ARC 4219B**. No public comment was received. These amendments are identical to those published under Notice.

These amendments were adopted by the Board on July 28, 2005.

These amendments shall become effective September 21, 2005.

These amendments are intended to implement Iowa Code chapter 89.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [200.4] is being omitted. These amendments are identical to those published under Notice as **ARC 4219B**, IAB 6/8/05.

[Filed 7/29/05, effective 9/21/05]

[Published 8/17/05]

[For replacement pages for IAC, see IAC Supplement 8/17/05.]

ARC 4437B**MEDICAL EXAMINERS
BOARD[653]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medical Examiners amends Chapter 12, "Mandatory Reporting and Grounds for Discipline," Iowa Administrative Code.

These amendments are intended to implement the new provision in 2005 Iowa Acts, House File 789, section 36, which gives the Board the authority to order that a physician

MEDICAL EXAMINERS BOARD[653](cont'd)

submit to a clinical competency examination when probable cause exists.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 22, 2005, as **ARC 4276B**. The Iowa Medical Society, the only party to submit public comment, pointed out that the rules do not address evidentiary standards supporting a probable cause finding that a competency evaluation is justified. Further, the rules do not indicate how the affected physician is informed of the bases for the Board's probable cause determination. In response to these comments, the Board chose not to list evidentiary standards since probable cause is a well-defined legal standard for which there is ample case law. However, the Board agreed to add that the order will include a concise statement of the facts that the Board relied on to order the evaluation.

The Board adopted these amendments during its regularly scheduled meeting on July 28, 2005.

These amendments will become effective on September 21, 2005.

These amendments are intended to implement 2005 Iowa Acts, House File 789, section 36.

The following amendments are adopted.

ITEM 1. Amend rule 653—12.3(148,272C), introductory paragraph, as follows:

653—12.3(148,272C) Order for mental, or physical, or clinical competency examination or alcohol or drug screening. A physician who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, or physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the physician's expense.

ITEM 2. Amend subrule 12.3(1), introductory paragraph, as follows:

12.3(1) Content of order. A board order for a mental, or physical, or clinical competency examination shall include the following items:

ITEM 3. Amend subrule **12.3(1)** by adopting **new** paragraph **"h"** as follows:

h. A concise statement of the facts relied on by the board to order the evaluation.

ITEM 4. Amend subrule 12.3(7) as follows:

12.3(7) Failure to submit. Failure of a physician to submit to a board-ordered mental, or physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

[Filed 7/29/05, effective 9/21/05]

[Published 8/17/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/17/05.

ARC 4427B

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455G.4(3) and 455G.23, the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby amends Chapter 14, "Aboveground Petroleum Storage Tank Fund," Iowa Administrative Code.

Chapter 14 as amended provides an extended deadline for the reimbursement of claims for the removal or upgrade of aboveground storage tank sites, pursuant to Iowa Code section 455G.23.

The amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on May 25, 2005, as **ARC 4187B**. No oral or written comments on the amendments were received. The amendments are identical to those published under Notice.

The Board adopted these amendments on July 12, 2005.

These amendments are intended to implement Iowa Code section 455G.23.

These amendments will become effective September 21, 2005.

The following amendments are adopted.

ITEM 1. Amend rule 591—14.8(455G) as follows:

591—14.8(455G) Upgrade expenses. Only upgrade expenses incurred after January 1, 2004, and not later than February 18, 2005 December 31, 2005, are eligible for reimbursement. Only expenses reasonable and necessary to the installation or improvement of aboveground petroleum storage tank equipment or systems required to comply with 40 CFR Section 112 are eligible for reimbursement. Reasonable and necessary expenses include, but are not limited to, installation or upgrade of the following:

1. Secondary containment.
2. Corrosion protection.
3. Loss prevention.
4. Security.
5. Drainage.
6. Removal of noncompliant tanks.

ITEM 2. Amend rule 591—14.9(455G) as follows:

591—14.9(455G) Permanent closure expenses. Only expenses incurred for permanent closure activities occurring after January 1, 2004, and not later than February 18 December 31, 2005, are eligible for reimbursement. Only expenses for activities reasonable and necessary to permanently close the aboveground petroleum storage tank site are eligible for reimbursement. Postclosure costs associated with activities to improve the aboveground petroleum storage tank site are not eligible for reimbursement. Reasonable and necessary activities eligible for reimbursement include, but are not limited to, the following:

1. Removal of the tank and tank piping system.
2. Removal of tank support and confinement systems.
3. Removal of security systems.

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

4. Disposal of waste petroleum and other waste material, including concrete.

[Filed 7/22/05, effective 9/21/05]

[Published 8/17/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/17/05.

these amendments are identical to those published under Notice as **ARC 4174B**, IAB 5/25/05.

[Filed 7/26/05, effective 9/21/05]

[Published 8/17/05]

[For replacement pages for IAC, see IAC Supplement 8/17/05.]

ARC 4429B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Barber Examiners hereby adopts amendments to Chapter 21, "Licensure of Barbers," Chapter 24, "Continuing Education for Barbers," and Chapter 26, "Fees," Iowa Administrative Code.

These amendments define licensure status as active or inactive, define the process for license reactivation and reinstatement, change from pre- and post-continuing education audits prior to licensure to post-continuing education audits following licensure, add the grounds for disciplinary action, and establish the fee for reactivation.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 25, 2005, as **ARC 4174B**. A public hearing was held on June 14, 2005, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. Public comments were received. In response to the comments, the Board added new paragraph "d" to subrule 21.9(2) to allow a licensee who was issued a license within six months of a new licensing cycle to wait until the subsequent renewal period to renew the license. New paragraph "d" reads as follows:

"d. An individual who is issued a license within six months of the license renewal date will not be required to renew the license until the next renewal cycle two years later."

The Board also modified subparagraph 21.16(3)"b"(3) to require that an individual who has not been in active practice for the past five years provide verification of passing the state examination within one year immediately prior to reactivation of the license. Subparagraph (3) now reads as follows:

"(3) Verification of passing the state examination administered by the board within one year immediately prior to reactivation if the applicant does not have a current license and has not been in active practice in the United States during the past five years."

These amendments were adopted by the Board of Barber Examiners on July 26, 2005.

These amendments will become effective September 21, 2005.

These amendments are intended to implement Iowa Code chapters 21, 147, 158 and 272C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 21, 24, 26] is being omitted. With the exception of the changes noted above,

ARC 4430B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Barber Examiners hereby adopts amendments to Chapter 21, "Licensure of Barbers," Chapter 24, "Continuing Education for Barbers," and Chapter 25, "Discipline for Barbers, Barber Instructors, Barbershops and Barber Schools," Iowa Administrative Code.

This rule making amends educational requirements to address refugees and immigrants who may have missing records, adds an additional requirement for licensure, adds additional specific continuing education criteria and adds new subrule 25.2(33) that provides the Board the ability to discipline a licensee for breach of an agreement or contract with the Impaired Practitioner Review Committee.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 25, 2005, as **ARC 4173B**. A public hearing was held on June 14, 2005, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received. These amendments are identical to those published under Notice.

These amendments were adopted by the Board of Barber Examiners on July 26, 2005.

These amendments will become effective September 21, 2005.

These amendments are intended to implement Iowa Code chapters 21, 147, 158 and 272C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [21.2(1)"d" and "f" to "j," 24.3(2), 25.2(33)] is being omitted. These amendments are identical to those published under Notice as **ARC 4173B**, IAB 5/25/05.

[Filed 7/26/05, effective 9/21/05]

[Published 8/17/05]

[For replacement pages for IAC, see IAC Supplement 8/17/05.]

ARC 4423B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Examiners for Nursing Home Administrators adopts amendments to Chapter 141, "Licensure of Nursing

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Home Administrators," Chapter 143, "Continuing Education for Nursing Home Administration," and Chapter 145, "Fees," Iowa Administrative Code.

These amendments define licensure status as active or inactive, define the process for license reactivation and reinstatement, change from pre- and post-continuing education audits prior to licensure to post-continuing education audits following licensure, add the grounds for disciplinary action, and establish the fee for reactivation.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 27, 2005, as **ARC 4118B**. A public hearing was held on May 17, 2005, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. The Board received one comment, which asked whether the exception in subrule 141.9(2) should apply to all licenses, not just initial licenses. In response to the comment, the Board modified subrule 141.9(2) to delete the word "initial." The Board also made the following changes from the Notice to make the wording of subrule 143.3(2) consistent with other amendments adopted in this rule making. The reference to approved continuing education sponsor in paragraph 143.3(2)"c" was deleted. The words "approved by the board" were deleted from the end of paragraph 143.3(2)"d," and the words "an approved provider" were replaced with "NCERS" in paragraph 143.3(2)"e." Paragraphs "c," "d" and "e" of subrule 143.3(2) now read as follows:

"c. Attendance at or participation in a program or course which meets the requirements in 143.3(1).

"d. Making presentations; conducting research; producing publications; preparing new courses; participating in home study courses; attending electronically transmitted courses; and attending workshops, conferences, or symposiums.

"e. Self-study coursework that meets the criteria set forth in these rules. Continuing education credit equivalent for self-study is as follows:

"180 minutes of self-study work = 1 continuing education hour

"The maximum number of hours for self-study, including television viewing, video or sound-recorded programs, correspondence work, or research, or by other similar means which is not directly sponsored by and supervised by an accredited postsecondary college or university or NCERS, is 8 hours."

These amendments were adopted by the Board of Examiners for Nursing Home Administrators on July 21, 2005.

These amendments will become effective September 21, 2005.

These amendments are intended to implement Iowa Code chapters 21, 147, 155 and 272C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 141, 143, 145] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 4118B**, IAB 4/27/05.

[Filed 7/21/05, effective 9/21/05]
[Published 8/17/05]

[For replacement pages for IAC, see IAC Supplement 8/17/05.]

ARC 4424B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Examiners for Nursing Home Administrators adopts amendments to Chapter 141, "Licensure of Nursing Home Administrators," and Chapter 144, "Discipline for Nursing Home Administrators," Iowa Administrative Code.

These amendments add new subrule 144.2(33) to provide the Board the ability to discipline a licensee for breach of an agreement or contract with the Impaired Practitioner Review Committee, remove the licensure fee method of payment options, and modify rules to be consistent with 2004 legislative changes by adjusting requirements relating to administrator experience and practicum requirements.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 27, 2005, as **ARC 4117B**. A public hearing was held on May 17, 2005, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received. These amendments are identical to those published under Notice.

These amendments were adopted by the Board of Examiners for Nursing Home Administrators on July 21, 2005.

These amendments will become effective September 21, 2005.

These amendments are intended to implement Iowa Code chapters 21, 147, 155 and 272C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [141.2"3," 141.4(1)"d," 141.4(2)"d"(4), 141.5(1)"c" and "e," 141.5(2), 144.2(33)] is being omitted. These amendments are identical to those published under Notice as **ARC 4117B**, IAB 4/27/05.

[Filed 7/21/05, effective 9/21/05]
[Published 8/17/05]

[For replacement pages for IAC, see IAC Supplement 8/17/05.]

ARC 4425B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Physician Assistant Examiners hereby adopts amendments to Chapter 326, "Licensure of Physician Assistants," Chapter 328, "Continuing Education for Physician Assistants," and Chapter 330, "Fees," Iowa Administrative Code.

These amendments define licensure status as active or inactive, define the process for license reactivation and reinstatement, change from pre- and post-continuing education audits prior to licensure to post-continuing education audits following licensure, add the grounds for disciplinary action, and establish the fee for reactivation.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 11, 2005, as **ARC 4149B**. A public hearing was held on June 2, 2005, from 1 to 2 p.m. in the Fifth Floor Board Conference Room, Lucas State Office Building.

Public comments received noted that the reference in subrule 326.9(2) was only to initial licenses, and the commenters requested that the exception apply to all licenses. Commenters also noted that in subrule 326.19(3) there should be an allowance for NCCPA certification instead of continuing education, as was provided in the previous rules. In response to comments received, the Board amended subrule 326.9(2) to delete the word "initial"; and in 326.19(3)"a"(2) and 326.19(3)"b"(2) the Board provided an allowance for NCCPA certification instead of continuing education.

These amendments were adopted by the Board of Physician Assistant Examiners on July 20, 2005.

These amendments will become effective September 21, 2005.

These amendments are intended to implement Iowa Code chapters 21, 147, 148C and 272C.

The following amendments are adopted.

ITEM 1. Amend rule **645—326.1(148C)** as follows:

Adopt the following **new** definitions in alphabetical order: "Active license" means a license that is current and has not expired.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensure by endorsement" means the issuance of an Iowa license to practice as a physician assistant to an applicant who is or has been licensed in another state.

"Reactivate" or "reactivation" means the process as outlined in rule 326.19(17A,147,272C) by which an inactive license is restored to active status.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

ITEM 2. Rescind subrule 326.4(5) and adopt the following **new** subrule in lieu thereof:

326.4(5) Provide verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a. Licensee's name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

ITEM 3. Rescind subrule 326.9(1) and adopt in lieu thereof the following **new** subrule:

326.9(1) The biennial license renewal period for a license to practice as a physician assistant shall begin on October 1 and end on September 30 two years later. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the li-

cense prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

ITEM 4. Amend subrule 326.9(2) as follows:

326.9(2) An individual who was issued an ~~initial~~ **a** license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

ITEM 5. Rescind subrule 326.9(3) and adopt in lieu thereof the following **new** subrule:

326.9(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—328.2(148C) and the mandatory reporting requirements of subrule 326.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

ITEM 6. Rescind subrule 326.9(5) and adopt in lieu thereof the following **new** subrule:

326.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 7. Amend subrule 326.9(7) as follows:

326.9(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 330.1(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within 30 days following the expiration date on the wallet card ~~the grace period~~.

ITEM 8. Adopt **new** subrule 326.9(8) as follows:

326.9(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a physician assistant in Iowa until the license is reactivated. A licensee who practices as a physician assistant in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

ITEM 9. Rescind and reserve rules **645—326.10(272C)** and **645—326.11(272C)**.

ITEM 10. Rescind rule 645—326.14(272C) and adopt in lieu thereof the following **new** rule:

645—326.14(272C) License denial.

326.14(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

326.14(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certi-

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

fied mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

326.14(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

ITEM 11. Adopt the following **new** rules:

645—326.19(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

326.19(1) Submit a reactivation application on a form provided by the board.

326.19(2) Pay the reactivation fee that is due as specified in 645—Chapter 330.

326.19(3) Provide verification of current competence to practice as a physician assistant by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 100 hours of continuing education within two years of application for reactivation or NCCPA or successor agency certification.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 200 hours of continuing education within two years of application for reactivation, of which at least 40 percent of the hours completed shall be in Category I, or NCCPA or successor agency certification; and

(3) Information on each supervising physician.

645—326.20(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 326.19(17A,147,272C) prior to practicing as a physician assistant in this state.

ITEM 12. Amend rule **645—328.1(148C)** as follows:

Rescind the definitions of "administrator" and "lapsed license."

Adopt the following **new** definitions in alphabetical order: "Active license" means a license that is current and has not expired.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

Amend the following definitions:

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules, ~~which has received advance approval by the board pursuant to these rules.~~

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period ~~or the selection of providers for verification of adherence to continuing education provider requirements during a specified time period.~~

"Hour of continuing education" means ~~a clock hour at least 50 minutes~~ spent by a licensee in actual attendance at and completion of *an* approved continuing education activity.

ITEM 13. Amend subrules 328.2(3) and 328.2(4) as follows:

328.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be ~~approved by the board or otherwise meet the requirements herein pursuant to statutory provisions and the rules that implement them in accordance with these rules.~~

328.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. *A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.*

ITEM 14. Amend rule 645—328.3(148C), catchwords, as follows:

645—328.3(148C,272C) Standards for approval.

ITEM 15. Amend subrule 328.3(1), introductory paragraph and paragraph "c," as follows:

328.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if it is ~~determined by the board that the continuing education activity:~~

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. ~~The At the time of audit, the board may request the qualifications of presenters;~~

ITEM 16. Amend subrule **328.3(1)**, paragraph "c," subparagraphs (2) and (3), as follows:

(2) Number of program contact hours (~~One contact hour equals one hour of continuing education credit.~~); and

(3) ~~Official signature or verification by program sponsor~~ *Certificate of completion or evidence of successful completion of the course provided by the course sponsor.*

ITEM 17. Rescind rule 645—328.4(148C) and adopt the following **new** rule in lieu thereof:

645—328.4(148C,272C) Audit of continuing education report. After each educational biennium, the board may au-

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

dit licensees to review compliance with continuing education requirements.

328.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

328.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this rule;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

328.4(3) For auditing purposes, all licensees must retain the information identified in subrule 328.4(2) for two years after the biennium has ended.

328.4(4) Information identified in subrule 328.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

328.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

328.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

ITEM 18. Rescind rule 645—328.5(148C) and adopt the following **new** rule in lieu thereof:

645—328.5(148C,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or

2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or

3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or

4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

ITEM 19. Rescind rules 645—328.6(148C) and 645—328.7(148C) and adopt the following **new** rules in lieu thereof:

645—328.6(148C,272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the

application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

328.6(1) A licensee requesting an extension or exemption shall submit a request on a form approved by the board that sets forth the reasons for the request and has been signed by the licensee and the attending physician.

328.6(2) The board may grant an extension of time to fulfill the continuing education requirement.

328.6(3) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

328.6(4) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—328.7(148C,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

328.7(1) Failure to cooperate with a board audit.

328.7(2) Failure to meet the continuing education requirement for licensure.

328.7(3) Falsification of information on the license renewal form.

328.7(4) Falsification of continuing education information.

ITEM 20. Rescind rules **645—328.8(148C)**, **645—328.9(148C)** and **645—328.10(272C)**.

ITEM 21. Amend subrules 330.1(5) and 330.1(6) as follows:

330.1(5) ~~Reinstatement fee is \$50~~ *Reactivation fee is \$100.*

330.1(6) Duplicate or reissued license certificate *or wallet card* fee is \$10.

ITEM 22. Rescind and reserve subrule **330.1(7)**.

[Filed 7/21/05, effective 9/21/05]

[Published 8/17/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/17/05.

ARC 4426B

PROFESSIONAL LICENSURE DIVISION [645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Physician Assistant Examiners adopts an amendment to Chapter 329, "Discipline for Physician Assistants," Iowa Administrative Code.

PROFESSIONAL LICENSURE DIVISION [645](cont'd)

New subrule 329.2(31) provides the Board the ability to discipline a licensee for breach of an agreement or contract with the Impaired Practitioner Review Committee.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 11, 2005, as **ARC 4148B**. A public hearing was held on June 2, 2005, from 1 to 2 p.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, Des Moines, Iowa. This amendment is identical to that published under Notice.

The amendment was adopted by the Board of Physician Assistant Examiners on July 20, 2005.

This amendment will become effective September 21, 2005.

This amendment is intended to implement Iowa Code chapters 21, 147, 148C and 272C.

The following amendment is adopted.

Adopt **new** subrule 329.2(31) as follows:

329.2(31) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

[Filed 7/21/05, effective 9/21/05]

[Published 8/17/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/17/05.

ARC 4428B**REAL ESTATE COMMISSION[193E]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 543B.9 and 543B.18, the Real Estate Commission hereby amends Chapter 3, "Broker License," and Chapter 4, "Salesperson License," Iowa Administrative Code.

New subrules 3.3(3), 3.6(5), 4.3(3), and 4.6(5) are added to provide the Commission the authority to initiate a contested case to challenge qualifications for licensure after administratively processing an application. The language is the same as or similar to current renewal language in subrules 3.5(5) and 4.5(5). One word is added to the catchwords of rule 4.3(543B) for consistency and clarification.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 4215B** on June 8, 2005. A public hearing was held on June 28, 2005. No one attended the hearing, and no written comments were received. These amendments are identical to those published under Notice of Intended Action.

The Real Estate Commission adopted these amendments on July 14, 2005.

These amendments will become effective September 21, 2005.

These amendments are intended to implement Iowa Code sections 543B.9 and 543B.18.

The following amendments are adopted.

ITEM 1. Amend rule 193E—3.3(543B) by adopting the following **new** subrule:

3.3(3) Denial of application. An application may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application shall not prevent the later initiation of a

contested case to challenge a licensee's qualifications for licensure.

ITEM 2. Amend rule 193E—3.6(272C,543B) by adopting the following **new** subrule:

3.6(5) Denial of application. An application may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application shall not prevent the later initiation of a contested case to challenge a licensee's qualifications for licensure.

ITEM 3. Amend rule 193E—4.3(543B), catchwords, as follows:

193E—4.3(543B) Application for salesperson license.

ITEM 4. Amend rule 193E—4.3(543B) by adopting the following **new** subrule:

4.3(3) Denial of application. An application may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application shall not prevent the later initiation of a contested case to challenge a licensee's qualifications for licensure.

ITEM 5. Amend rule 193E—4.6(272C,543B) by adopting the following **new** subrule:

4.6(5) Denial of application. An application may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application shall not prevent the later initiation of a contested case to challenge a licensee's qualifications for licensure.

[Filed 7/25/05, effective 9/21/05]

[Published 8/17/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/17/05.

ARC 4431B**STATE PUBLIC DEFENDER[493]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 13B.4(8), the State Public Defender amends Chapter 7, "Definitions," and Chapter 12, "Claims for Indigent Defense Services," and adopts new Chapter 14, "Claims for Attorney Fees in 600A Terminations," Iowa Administrative Code.

These amendments implement 2005 Iowa Acts, House File 683, which revises procedures regarding appointment of counsel and approval of claims for parole violation cases and cases for termination of parental rights under Iowa Code chapter 600A.

Notice of Intended Action regarding these amendments was published in the June 22, 2005, Iowa Administrative Bulletin as **ARC 4245B**; and these amendments were simultaneously Adopted and Filed Emergency as **ARC 4265B**.

A public hearing was held, and no comments were received. These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective October 15, 2005, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

STATE PUBLIC DEFENDER[493](cont'd)

These amendments are intended to implement Iowa Code chapters 13B, 600A, 815 and 908 as amended by 2005 Iowa Acts, House File 683.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [7.1, 12.1(1), 12.2(1)"b"(2), 12.4(4), 12.6(1), Ch 14] is being omitted. These amendments are

identical to those published under Notice as **ARC 4245B** and Adopted and Filed Emergency as **ARC 4265B**, IAB 6/22/05.

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